JOURNAL

OF THE

HOUSE OF REPRESENTATIVES

OF THE

COMMONWEALTH OF KENTUCKY

EXTRAORDINARY SESSION, 1936
(Revenue Session)

Held in the State Capitol, in the Capital City of Kentucky,
at Frankfort, in the year of Our Lord 1936 and in
the One Hundred and Forty-Fourth year
of the Commonwealth

Begun on the thirtieth day of March and adjourned
sine die on the ninth day of May

BROOKS L. HARGROVE, *Chief Clerk*
MARSHALL BARNES, *Assistant Clerk*
JANE ADDAMS WADDLE, *Stenographer*

PROPERTY OF THE COMMONWEALTH OF KENTUCKY

THE STATE JOURNAL COMPANY
Printers to the Commonwealth
Frankfort, Kentucky

JOURNAL

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EXTRAORDINARY SESSION, 1936

(Revenue Session)

MONDAY, MARCH 30, 1936.

At a special session of the General Assembly of the Commonwealth of Kentucky, begun and held at the Capitol in the city of Frankfort, Kentucky, on Monday, March 30, in the year of Our Lord, one thousand nine hundred and thirty-six, and the one hundred and forty-fourth year of the Commonwealth, in accordance and in obedience to a proclamation issued by the Governor of the Commonwealth on March 27, 1936, as hereinafter set out, the House of Representatives was called to order by The Honorable John Kirtley, Speaker of the House of Representatives, and was opened with prayer by the Reverend Olaf Anderson of the Presbyterian Church, South, of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
Henry H. Allen
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Wallace Brown
Jas. C. Carter

Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
Price Holbrook
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
M. T. McCarthy
J. L. McDermott
W. F. McGary
Elmer McGlothen
John Marshall
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
Charles Wylie

It appearing that a majority of all the members of the House are present, the following proclamation was read by Brooks L. Hargrove, Chief Clerk of the House, viz.:

PROCLAMATION

To The General Assembly
of the Commonwealth of Kentucky:

Whereas, The anticipated revenues from existing tax laws are inadequate to finance the several departments, boards, commissions and agencies of the government of Kentucky for the biennial period beginning July 1, 1936; and,

Whereas, The State budget for said biennial period cannot be balanced without additional revenues; and,

Whereas, an appropriation act has already been passed by the General Assembly setting forth the financial needs of the several departments, boards, commissions and agencies of the State government; and,

WHEREAS, The existing tax laws cannot reasonably be expected to produce more than eleven million five hundred thousand dollars ($11,500,000.00) for each of the years of the biennial period beginning July 1, 1936; and,

NOW, THEREFORE, In order to raise the necessary revenues to balance the State budget and meet the financial needs of the several departments, boards, commissions and agencies of the State of Kentucky, and according to the power vested in me by the Constitution of Kentucky to convene the General Assembly into Extraordinary Session, *I do issue this, my proclamation,* convening the General Assembly of Kentucky in Extraordinary Session at the seat of government at Frankfort, Kentucky, at two o'clock p. m., on Monday, March 30, 1936, for the sole purpose of considering the following subject:

(1) To pass laws raising the necessary revenues, in addition to those anticipated from existing tax laws, to balance the State budget and meet the financial needs of the several departments, boards, commissions and agencies of the government of the Commonwealth of Kentucky for a period of two years beginning July 1, 1936, and only said subject.

You will, therefore, in accordance with this proclamation, assemble in Extraordinary Session at the seat of government at Frankfort, Kentucky, on the day and date above written, to consider the subject herein mentioned and only said subject.

Given under my hand at 3:25 o'clock p. m., this 27th day of March, 1936.

By the Governor:

(SEAL)

A. B. CHANDLER,
Governor of Kentucky.

CHAS. D. ARNETT,
Secretary of State.

COMMONWEALTH OF KENTUCKY
Office of the Secretary
of State

CERTIFICATE

I, Chas. D. Arnett, Secretary of State for the Commonwealth of Kentucky, do certify that the foregoing writing has been carefully compared by me with the original record thereof, now in my official custody as Secretary of State and remaining on file in my office, and found to be a true and correct copy of

PROCLAMATION TO THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF KENTUCKY, Issued by the Governor March 27, 1936.

In witness whereof, I have hereunto set my hand and affixed my official seal.

SEAL

Done at Frankfort this 30th day of March, 1936.

CHAS. D. ARNETT,
Secretary of State.

Dr. Shields offered the following resolution, viz.:

Be it Resolved, by the House of Representatives: That the rules covering the House of Representatives during the regular session of 1936 be and the same are hereby adopted as the rules of this House for this Extraordinary Session.

Said resolution was adopted.

Mr. Dickson offered the following resolution, viz.:

Be it Resolved, by the House of Representatives: That all the elected employees of the House of Representatives, who were elected in the 1936 General Assembly, be and they are hereby continued in their respective offices for this 1936 Special Session; and,

Be it Further Resolved, That the Speaker of the House of Representatives, be and he is hereby empowered to appoint such additional employees as he may deem necessary.

Said resolution was adopted.

Mr. Dickson offered the following resolution, viz.:

Be it Resolved by the House of Representatives: That the Sergeant-at-Arms be directed to invite the pastors of the various churches of Frankfort, Kentucky, to be present and open the meetings of this Special Session of the General Assembly, with prayer.

Said resolution was adopted.

Dr. Shields offered the following resolution, viz.:

Be it Resolved by the House of Representatives: That a Committee of this House be appointed by the Speaker to wait upon the Senate and notify that body that this House is now organized and ready to proceed to the transaction of business and that said Committee shall in conjunction with a like Committee to be appointed from the Senate, wait upon the Governor and inform him that this General Assembly is now organized and ready to receive any communication he may have to make.

Said resolution was adopted.

Thereupon the Speaker appointed Messrs. Douglas Bolling, Garrett, Dickson and Mayfield as members constituting said Committee.

After a time the Committee aforesaid, reported that they had discharged the duties imposed upon them and that they had been informed that the Governor would address the General Assembly in Joint Session on to-day.

The Speaker announced the following Standing Committee of the House, viz.:

Committee on Revenue and Taxation No. 1.

WALLACE BROWN, *Chairman*

Joe Robinson	Carl Schneider
S. J. Wagner	Bruce Sloan
T. B. McConnell	Henry Ward
Douglas Bolling	B. F. Shields

Mr. Clay moved that the privilege of the floor be extended to Mr. and Mrs. Henry Lee Cooper.

Said motion was agreed to.

Mr. Claxon moved that the privilege of the floor be extended to The Hon. Gene Fugett of Stamping Ground, Kentucky.

Said motion was agreed to.

Mr. Wells moved that the privilege of the floor be extended to Mr. V. P. Chapman.

Said motion was agreed to.

Mr. Carter moved that the privilege of the floor be extended to Mr. Thomas Burr.

Said motion was agreed to.

Mr. McDermott moved that the privilege of the floor be extended to Dr. and Mrs. Connelly and Dr. and Mrs. J. C. Duval.

Said motion was agreed to.

Mr. Miller moved that the privilege of the floor be extended to Mr. J. M. McDaniels of Beattyville, Kentucky.

Said motion was agreed to.

After a time the Senate of Kentucky appeared and in order, entered upon the floor of the House of Representatives and The Hon. Keen Johnson, Lieutenant Governor and President of the Senate, took the Chair and presided, and The Hon. John Kirtley, Speaker of the House of Representatives, having taken his seat on the right of the President of the Senate, the two Houses convened in Joint Session which was composed of a majority of the members elected to each body.

The Committees heretofore appointed by the Senate and the House to wait upon the Governor, appeared upon the floor of the House with His Excellency, A. B. Chandler, Governor of Kentucky, who took his place at the Clerk's desk and addressed the General Assembly in Joint Session in regard to the methods of raising revenue sufficient to balance the budget of Kentucky.

The Hon. John Kirtley, Speaker of the House, introduced The Hon. J. C. Duvall, member of the Legislature of the State of Texas, who brought a message of good will from the Lone Star State and presented The Hon. A. B. Chandler, Governor, with a Captain's Commission in the Texas Rangers, and a Ranger's Hat as the insignia of the Commission.

Senator Gilbert moved that the Joint Session do now dissolve.

Said motion was agreed to.

Thereupon the Speaker resumed the Chair and called the House to order.

Dr. Shields moved that the Rules of this House be suspended for the purpose of introducing bills.

Said motion was agreed to.

Thereupon the following bills were introduced, viz.:

By Mr. Douglas Bolling:

H. B. 1. An Act relating to revenue and taxation on the sale and distribution of alcoholic beverages and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* Whenever used in this Act, unless the context requires otherwise:

(1) "Person" means and includes individuals, partnerships, joint stock companies, associations, fiduciaries, and corporations.

(2) "Alcohol" means and includes ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process produced.

(3) "Alcoholic beverage" means and includes alcoholic spirits, liquor, rum, wine, beer, and every liquid or solid, patented or not, containing one per cent or more of alcohol by volume and capable of being consumed by a human being, and every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. Provided, that there is excepted from

this definition of alcoholic beverages the following: (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, national formulary or the American Institute of Homeopathy that are unfit for use for beverage purposes; (b) patented, patent and priority medicines that are unfit for use for beverage purposes; (c) toilet, medicinal and antiseptic preparations and solutions that are unfit for use for beverage purposes; and (d) flavoring extracts and syrups that are unfit for use for beverage purposes.

(4) ''Beer'' means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute therefor.

(5) ''Licensee'' means any person to whom a license has been granted by the State of Kentucky or agency thereof to engage in the manufacture, distribution, sale, transportation, or other traffic in alcohol.

(6) ''Manufacturer'' means and includes a brewer, vinter, distiller, or rectifier and any other person, whether included in the aforesaid categories or not, engaged in the production and/or bottling of alcoholic beverages. ''Bottling'' means the placing of alcoholic beverage in any retail container irrespective of the material from which said container is made.

(7) ''Wholesaler'' means any one, whether distributor, jobber, broker, agent, or other person, whether enumerated in this Act or not, who distributes alcoholic beverages for the purpose of being sold at retail; provided, that after July 1, 1936, the term ''wholesaler'' shall not be deemed to include any subsidiary of a manufacturer or cooperative of retail outlet.

(8) ''Retail outlet'' means and includes retailers, hotels, restaurants, railroad dining cars, clubs, and any person who sells alcoholic beverages to consumers or to any person other than a manufacturer licensed under the laws of Kentucky or

of some other State or a wholesaler licensed under the laws of Kentucky or of some other State or a retail outlet licensed under the laws of Kentucky or of some other State or a State or Commonwealth or a State or Commonwealth liquor corporation.

(9) "Retail sale" means sale by a retail outlet.

(10) "Retail container" means and includes any bottle, can, barrel, or other container which without separable intermediate container holds alcoholic beverage and which is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not.

(11) "Spirits" means and includes whiskeys, brandies, distilled spirits, cordials, liquors, alcohol, and any other alcoholic beverage, whether or not included in the aforesaid categories, except beer, and wine which contain less than 24 per cent of alcohol by volume.

(12) "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne, sparkling, and fortified wine of an alcoholic content not to exceed 24 per cent by volume.

(13) "Department" means the Department of Revenue of Kentucky.

§ 2. *Rate of tax on beer.* There is hereby levied upon the sale or distribution by sale or gift a tax of one dollar and fifty cents ($1.50) on each barrel of thirty-one (31) gallons and a like or proportional rate per gallon, or fractional part thereof, on beer sold or distributed in any other container of more or less than thirty-one (31) gallons.

§ 3. *Rate of tax on wine.* There is hereby levied upon the sale or distribution by sale or gift tax of twenty-five cents ($0.25) on each gallon of wine, and a like or proportional rate per gallon on wine sold or distributed in any other container of more or less than one gallon; provided that in no event may the tax be less than five cents ($0.05) on the sale or distribution of any retail container of wine.

§ 4. *Rate of tax on spirits.* There is hereby levied upon the sale or distribution by sale or gift a tax of one dollar and four cents ($1.04) on each wine gallon of spirits and a like or proportional rate per gallon on beverages sold or distributed in any other container of more or less than one gallon. Nothing herein contained shall affect or be deemed to affect or to repeal, amend, or modify any tax imposed by any provisions of chapter one hundred and forty-nine (149) of the Acts of the General Assembly of 1934, except Section 3 (Section 4214a-14, Carroll's Kentucky Statutes, 1934 Supplement) thereof which is hereby repealed.

§ 5. *Who shall pay tax.* The manufacturer, wholesaler, or other licensee who manufacturers, bottles, cans, or otherwise places any alcoholic beverage in any retail container for eventual retail sale or distribution by gift or retail sale shall pay the tax imposed in this Act, at or prior to, any sale or distribution by gift or sale of such beverage in Kentucky.

§ 6. *Importer shall pay tax.* The wholesaler or manufacturer who imports any alcoholic beverage in any retail container for eventual retail sale or distribution by gift or retail sale in this State shall pay the tax imposed in this Act and affix the stamps as provided herein upon such beverage before the same shall be sold or offered for sale or distribution by gift or sale; provided that said tax shall be paid and said stamps shall be affixed in every instance within twenty-four (24) hours after receipt of said beverage by the importer thereof.

§ 7. *Failure to pay tax.* In the event that the licensee or any other person who places any alcoholic beverage in any retail container, or who imports such beverage in any retail container, fails to pay the tax imposed in this Act when due, the purchaser thereof and each subsequent purchaser or other recipient in turn becomes liable for the tax. Provided, that this section shall not relieve the preceding licensee from liability for the tax and for any penalties prescribed in this Act for violation thereof.

§ 8. *Purchase of alcoholic beverage by manufacturer or wholesaler.* No manufacturer of alcoholic beverages shall sell or distribute by gift or sale any such beverages except to another manufacturer or to a wholesaler.

No wholesaler shall sell or distribute by gift or sale any alcoholic beverages except to another wholesaler or to a retail outlet, provided however that manufacturers of beer may sell to retail outlets situated in the county in which the beer manufacturer's brewery is located or may sell to consumers for personal use and not for resale.

§ 9. *Purchase of alcoholic beverage by retail outlet.* No retail outlet shall purchase or have in possession any alcoholic beverage, other than beer purchased from a Kentucky manufacturer, which shall have been purchased from other than a licensed Kentucky wholesaler not a manufacturer. No common carrier or other person shall transport into the State any alcoholic beverage unless said beverage shall be consigned to a licensee other than a retail outlet. Provided, that the proprietor of a licensed railroad dining car may purchase for sale in such car alcoholic beverages from wholesalers outside the State when the tax imposed by this Act on such beverages shall have been paid before entry into the State.

§ 10. *Stamps evidence of payment of tax.* The person who pays the tax on any alcoholic beverage shall evidence the payment by the purchase and affixing of stamps issued by the Department, which stamps he shall place upon each retail container in such a manner as the Department may prescribe.

§ 11. *Who shall sell stamps.* The Commissioner of Revenue shall prescribe, prepare or cause to be prepared, and have available for sale, stamps of such denomination, kinds, and quantities as he shall deem necessary for the payment of taxes imposed by this Act.

§ 12. *Out-of-state vendor may purchase stamps.* Vendors of alcoholic beverages without the State, licensed to sell such beverages by their own states and by the Federal government, may purchase stamps from the Commissioner of Revenue of Kentucky and affix them in the manner prescribed by said Commissioner to retail containers of alcoholic beverages to be sold to wholesalers in Kentucky for eventual retail sale or distribution by gift or retail in this State, or to proprietors of licensed railroad dining cars; in which event the importer of such alcoholic beverages within the State shall not be required to pay the tax on such beverages nor to affix the stamps.

§ 13. *Prohibition of sale without stamps.* No alcoholic beverage in retail container shall be sold for eventual retail sale or distribution by gift or retail sale in the State unless a stamp evidencing payment of the tax on said alcoholic beverages is in place on such container. No common carrier or other person shall transport alcoholic beverages in retail containers from one point to another within the State unless such stamp is in place. No retail outlet shall purchase or have in possession any alcoholic beverage except in retail containers to which such stamps have been properly affixed.

§ 14. *Sales by licensees when ultimate destination is undertermined.* The sale or distribution of alcoholic beverages manufactured in, or imported into, this State for shipment permanently out of the State to be sold and consumed without the State shall not be subject to the taxes imposed by this Act. Provided, however, that the containers of such alcoholic beverages for shipment permanently out of the State to be sold and consumed without the State shall have affixed thereon, in such manner as the Department may prescribe a stamp provided under chapter 149, Acts of the General Assembly of 1934 or (if no such stamp is required) an export stamp to be issued by the Department without charge.

§ 15. *Only one tax required.* Nothing in this Act shall be construed to require the payment of the tax imposed herein on the sale of the same alcoholic beverages more than once. The Commissioner of Revenue is empowered to issue stamps without charge to any licensee when necessary to give effect to this section.

§ 16. *Cancellation of stamp.* It shall be the duty of the person, whether retailer, consumer, or other, who opens each retail container of alcoholic beverage, to deface and cancel all tax stamps on such container at the time it is first opened. Provided, that any retailer shall leave all such canceled stamps in plain view unless the container is empty of alcoholic beverage.

§ 17. *Stamps affixed to barrels.* The licensee who sells any alcoholic beverage destined to be sold to any retail outlet in barrels or other containers which are not ordinarily suitable for delivery to the consumer shall pay the tax herein imposed on the sale of the beverage before selling or offering it for sale and shall affix the stamps in the manner prescribed by regulation, unless such tax has already been paid and such stamps affixed.

§ 18. *Possession of unstamped alcoholic beverage.* The possession of unstamped alcoholic beverage, except as otherwise explicitly provided herein, shall be deemed *prima facic* evidence that such beverage is possessed with the intent to sell or distribute the same contrary to law.

§ 19. *Report of licensee.* For the purpose of assisting in the enforcement of this Act, every licensee, whether subject to the payment of taxes imposed by this Act or not, on or before the tenth day of each month, shall render to the Commissioner of Revenue a sworn or affirmed statement in writing of all of his trafficking in alcohol during the preceding month. Such statement shall be taken directly from the books of such licensee, and shall set forth, on forms furnished by the Commissioner, the quantities, kinds, and destinations of alcoholic beverages purchased, held, and sold; the tax stamps purchased, affixed, and on hand; and such additional information as the Commissioner may require. Such statement shall include alcohol destined for industrial and other non-beverage purposes, and alcoholic beverages destined for sale outside the State, as well as alcoholic beverages subject to the tax imposed by this Act.

Every person who shall import any alcoholic beverage in Kentucky for the purpose of sale or distribution by gift or sale in this State or any other State is hereby required to transmit to the Commissioner of Revenue within twenty-four (24) hours after receipt of same an original copy of each invoice for such beverage.

§ 20. *Powers of the Department of Revenue.* The administration of this Act is vested in the Department of Revenue, which may prescribe forms and promulgate rules and regulations needed for the enforcement of this Act.

The Department, through a representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment and/or inventory of any person made liable for any tax under the provisions of this Act; to examine witnesses under oath for purposes appropriate for enforcement of this Act; and to examine the books, records, papers, files, equipment and/or inventory of manufacturers, wholesalers, retailers, or carriers for the purpose of determining whether the Act is being violated.

The Department shall have the power to institute legal proceedings by the Attorney General of Kentucky, or any attorney duly authorized by him, for the purpose of ascertaining the amount of tax due and/or enforcing the collection thereof with penalties and interest thereon, and for the purpose of enjoining the operation of the business of the delinquent.

The Department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalty and interest thereon, as set out herein, have an attachment against the property of the person liable for tax or garnishment of his creditors without the execution of bond on the filing of an affidavit showing the nature of the claim, that it is just, the sum which the Department believes the Commonwealth should recover, on any of the grounds provided by the Civil Code of Practice for the issuance of an attachment in civil causes.

§ 21. *Commissioner of Revenue to Require Information.* The Commissioner of Revenue shall require common carriers to provide information in such form as he may deem wise respecting all shipments of alcoholic beverages to, from, or between persons in Kentucky.

§ 22. *Violation of this Act.* (a) In addiaion to the remedies herein granted the Commonwealth for such violations, any person who shall violate any of the provisions of this Act shall also be deemed guilty of a misdemeanor and punished by a fine of not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000.00), or by imprisonment of not less than thirty (30) days nor more than one (1) year, or by both such fine and imprisonment. Provided, that in case such violator be a corporation, joint stock company, association or fiduciary, then the principal officer and/or the officer or officers responsible for such violation may be punished by such imprisonment.

(b) Any person required under this Act to pay any tax herein imposed who shall fail to pay the tax due in the time specified in this Act shall pay a penalty equal to twenty per cent (20%) of the amount of the tax due and delinquent together with interest at six per cent (6%) per annum. In addition to all other penalties herein imposed, the Department of Revenue shall report such delinquency to the Department of Business Regulation, which may revoke the license of such person.

(c) If any person shall force, counterfeit, or alter any stamp, receipt or writing provided for by any provision of this Act with intent to defraud the Commonwealth, or if he shall be concerned in printing, writing, signing, uttering, or passing any such forged and counterfeit papers (whether passed separately or attached to a retail container) as above described, knowing the same to be forged and counterfeited, he shall be confined in the penitentiary not less than two (2) nor more than ten (10) years.

§ 23. *Tax on sale of inventories on hand.* As to stocks of alcoholic beverages in the hands of a wholesaler or retail outlet and acquired before but on hand when the taxes imposed by the previous sections of this Act becomes effective, there is hereby imposed for the first sale or distribution by gift or sale thereof after such effective date of the aforementioned taxes, a tax equal in amount to that imposed by the previous sections of this Act on the sale or distribution by gift or sale of the alcoholic beverage like in kind to that so sold or distributed by gift or sale.

Payment of the tax imposed by this section must be evidenced by the affixing of stamps purchased from and issued by the Department on the retail containers of such beverages in the same fashion and manner as the other stamps mentioned in this Act are required thereby to be affixed. Such affixation must be made not later than one o'clock A. M., of the effective date of the taxes mentioned in the previous sections of this Act.

§ 24. *Disposition of revenue.* All revenues collected under the provisions of this Act shall be covered through the Department of Finance into the State Treasury and credited to the General Expenditure Fund. Brewers and wholesalers of beer are hereby authorized to deduct from the amount of the tax collected under the provisions of this act three (3) per cent of the said amount to cover expenses incident to the reporting and remitting of such taxes as provided in this Act.

§ 25. *Emergency.* Whereas the present State revenue does not meet the immediate needs of the maintenance of the

State government, its agencies and subdivisions, an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor.

Be it provided, however, that pending preparation of stamps and development of other administrative plans, the effective date of Sections 2, 3, 4 and 22 shall be one o'clock A. M., of the date three calendar weeks from the day this measure is approved by the Governor.

By Mr. Garrett:

H. B. 2. An Act to amend and re-enact Subdivision IIIb of Article XII, Chapter 108, Revenue and Taxation Sections, 4223c-1, 4223c-2, 4223c-3, 4223c-4, 4223c-5, 4223c-6, 4223c-7, 4223c-8 and 4223c-9 of Carroll's Kentucky Statutes, Official Edition, 1930.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Subdivision IIIb of Article XII, Chapter 108, Carroll's Kentucky Statutes, as revised to 1930, the same being Sections 4223c-1 to Section 4223c-9 inclusive, be and the same is hereby amended, so that when so amended and re-enacted will read as follows:

SUBDIVISION IIIb

Oil and Gas Production

4223c-1. Tax on Oil and Gas Production; Distribution of; By Whom Levied.—Every person, firm, corporation or association producing crude petroleum oil or natural gas in this state shall in lieu of all other taxes on the wells producing said crude petroleum or natural gas, annually pay a tax equal to one per centum (1%) of the market value of all crude petroleum or natural gas so produced, and such tax shall be for state purposes, and, in addition, any county in the state may impose a like tax for road purposes, county purposes or school purposes not to exceed one-half of one per centum of the market value of all crude petroleum or natural gas produced in such county, and the fiscal court of any county may levy said tax for county purposes and shall determine what fund or funds shall receive the taxes when collected, and, when crude petroleum or natural gas is produced in any separate taxing district in a county, the fiscal court shall equitably distribute such taxes between the county and such taxing district.

4223c-2. Notice to Carriers; Transporter to Collect Tax; County Levying Tax to Notify Tax Commission.—Any county imposing the tax provided in 4223c-1 hereof shall immediately after the levy of such tax give notice thereof to each transporter of crude petroleum or natural gas registered in said county, and the transporter of said petroleum or natural gas, shall, from and after the first day of the month immediately following such notice, proceed as hereinafter provided, to collect such county tax, and shall pay the same to the Sheriff of such county and in the manner and at the same time payment of such taxes shall be required to be made to the state tax commission. Each county imposing such tax shall also, upon the fixing of the levy, certify the same to the state tax commission which shall make the assessment for such county tax in the same manner and at the same value as provided for the state tax, which shall be certified to such county for collection.

4223c-3. When Tax Attaches.—The tax hereby provided for shall be imposed and attach when the crude petroleum or natural gas is first transported from the tanks, wells or other receptacles located at the place of production.

4223c-4. Transporters of Oil or Gas Required to Register; Clerk to Certify to Commission.—Every person, firm, corporation or association required to report under 4223c-5 of this act shall register as a transporter of crude petroleum or natural gas in the clerk's office of each county of this state, in which said business is carried on by such transporters of crude petroleum or natural gas, in a book which the state tax commission shall provide therefor, showing the name, residence and place of business of such transporter of crude petroleum or natural gas, and it shall be the duty of the county clerk of each county to immediately certify to the state tax commission a copy of each registration as made.

4223c-5. Transporters of Oil and Gas Defined; Reports to be Made By; Blanks For.—Every person, firm, corporation, or association engaged in the transportation of crude petroleum or natural gas in the state from the tanks, wells or receptacles located at the place of production in the state shall, for the purpose of this act, be considered a transporter of crude petroleum or natural gas and every such transporter of crude petroleum or natural gas shall make a monthly verified report to the state tax commission, on or before the 20th day of the month succeeding the month in which the crude petroleum or natural gas is so received for transportation, showing the quantity of each kind or quality of all crude petroleum and quantity in cubic feet of all natural gas so received from each county in the state and the market value of such crude petroleum or natural gas on the first business day after the 10th day of the month in which such report is made and such report shall show any sales of such crude petroleum or natural gas so received, in which event it shall show the quantity of crude petroleum or natural gas in each sale, the date of each sale, and the market price of such crude petroleum or natural gas on each date of sale for such preceding month, and said report shall be made upon blanks furnished and prescribed by the State Tax Commission.

4223c-6. State Tax Commission to Assess Value of Oil and Gas; Notice to Transporters; Certify to County Clerk; Sheriff to Collect; Basis of Assessment; Transportation Charges.—The state tax commission shall, upon receiving the reports provided for in section 4223c-5 hereof, upon such reports and such other reports and information as it may secure, assess the value of all grades or kinds of crude petroleum and the value of all the natural gas so reported for each month, and on or before the last day of the month in which such reports are required to be made notify each transporter of crude petroleum or natural gas so reported of such assessment and certify such assessment to the county clerk of each county which has reported the levy of the county tax provided for in section 4223c-2 for record, and such county clerk shall immediately deliver a copy thereof to the sheriff of such county for collection of such county tax. The transporters so notified of the assessment shall have until the 20th day of the month, following such notice, in which to be heard by the state tax commission on any objection to such assessment, and the assessment shall become final on such twentieth day of the month and the tax due and payable on that day. The State Tax Commission shall make the essessment of the value of the crude petroleum and natural gas so reported by each transporter of crude petroleum and natural gas as follows:

Where the report shows no sale of crude petroleum or natural gas the month covered by the report, then the market value of crude petroleum and natural gas on the first business day after the tenth day of the month in which this report is made shall be fixed as the assessed value of all crude petroleum and natural gas covered by such report.

But where the report shows sales of crude petroleum and natural gas during the month covered by the report, if it shows that all crude petroleum and natural gas reported has been sold, then the market price of such crude petroleum and natural gas on each day of such sale or sales shall be the assessed value of all crude petroleum and natural gas sold on such date of sale, and the total amount of the tax to be reported shall be the total of the assessment or assessments made on such sale or sales; but if such report shows that any part of the crude petroleum and natural gas so reported remains unsold, then as to such portion remaining unsold the market price of the crude petroleum and natural gas on the first business day after said tenth of the month following the month covered by such report shall be fixed as the assessed value of such portion of the crude oil and natural gas unsold, and the total amount of the tax to be reported as the assessment on such report shall be the total of the assessment made on such sold and unsold crude petroleum and natural gas.

The state tax commission in making its assessment shall take into consideration transportation charges.

4223c-7. Transporters Liable for Taxes; Collection from Producer.—Every person, firm, corporation or association required to make report as provided in section 4223c-5 hereof, shall be responsible and liable for the taxes as herein set forth on all crude petroleum and natural gas so received by it, and shall collect from the producer in either money or crude petroleum or natural gas the taxes imposed under the provisions of this act; but if collection is in crude petroleum or natural gas such transporter is authorized and empowered to sell the same and pay said taxes by check or cash to the state tax commission or sheriff, as provided in this act.

4223c-8. Additional Reports.—The state tax commission may require reports on blanks prepared by it from all producers and transporters of crude petroleum and natural gas, in addition to the reports above provided for, as it may deem necessary, from time to time.

4223c-9. Delinquency, Penalty For; Misdemeanor.—Any person, firm, corporation or association required to make reports, or collect and pay the taxes hereunder, failing to pay such taxes, penalty or interest, after becoming delinquent; or failing to make any report required by this act for thirty days after the date upon which the same is required by this act to be made; or failing for thirty days after engaging in the transportation of crude petroleum or natural gas, as set out herein, to register as required hereby, shall be deemed guilty of a misdemeanor, and on conviction shall be fined fifty dollars ($50.00) for each day of such failure, to be recovered by indictment or civil action, and a false report shall be deemed as a failure to report under this act.

Whereas, crude oil and natural gas is being produced daily and sold on the markets, and no production tax is now paid on natural gas; an emergency is declared to exist and this Act shall become a law upon its passage and approval by the Governor.

By Mr. Gough:

H. B. 3. An Act relating to revenue and taxation, imposing a tax upon the manufacture of each proof gallon of distilled spirits; and imposing a tax upon the mixing, rectifying or blending of each gallon of distilled spirits; and imposing a tax upon the sale of each gallon of distilled spirits manufactured outside of Kentucky and sold in Kentucky; and providing for the payment and collection of such taxes; and setting out the powers and duties of the officers of the Commonwealth in respect thereto; and repealing Sections 2, 4, 6 and 7 of Chapter 149 of the Acts of the 1934 Regular Session of the General Assembly of the Commonwealth of Kentucky.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. "Person" as used in this act shall mean every individual, firm, corporation, association or co-partnership.

§ 2. That every person engaged in the business or occupation of manufacturing distilled spirits shall pay, in addition to all other taxes provided by law, to the Commonwealth of Kentucky an excise tax of fifteen cents ($.15) on each proof gallon of distilled spirits produced in the Commonwealth; provided, however, that such tax shall become due and payable at the time of production of such distilled spirits, and a lien to secure the payment of same shall attach at once upon such distilled spirits and all other property of such person whether remaining in the hands of such person or in the hands of a bona fide purchaser for value, and such person shall within ten days after the close of each calendar month file a verified statement with the State Tax Commission and the Auditor of Public Accounts as to the number of gallons of distilled spirits produced in such preceding month and pay the tax due thereon to the Commonwealth of Kentucky. Provided, that one-half (½) of the tax may be paid on a deferred plan as follows:

Provided further that should such person so elect he may execute Bond with good surety, approved by the Governor, conditioned upon the payment of the tax, penalties, interest at the rate of five per centum per annum and the cost of collection; and provided further that in lieu of such bond, such person may deposit collateral composed of direct or indirect obligations of the United States Government, State Warrants and Bridge Bonds of the State Highway Department in a sum equal to one hundred and twenty-five per centum of the amount of the tax due, or bonded warehouse receipts of spirits insured against all hazards in a sum equal to two hundred per centum of the amount of said tax, and the Governor shall require additional collateral at the expiration of each year; and if at any time said collateral depreciates below the amount first required herein the Governor shall call for additional collateral and upon default the Governor shall forthwith dispose of the deposited collateral and cause the Auditor of Public Accounts to proceed to enforce the lien given herein to such an extent as will fully pay all tax, interest, cost and penalties. All taxes secured by bond or collateral must be paid before the sale of such distilled spirits by such person, and upon payment of same the State Tax Commission shall issue a receipt for such taxes paid.

It shall be unlawful for any person to remove any distilled spirits from the State of Kentucky or from bonded warehouses without having paid the tax as prescribed by this Act. Upon the commission of such unlawful act the State Tax Commission shall institute proceedings to enforce the lien and collect the tax.

It shall be unlawful for the manufacturer or owner of a warehouse in which said spirits are stored to remove such spirits without first notifying the State Tax Commission of such intention to remove at least ten days in advance of such removal, and any person violating this provision shall be subject to all legal penalties.

In the event of the destruction or loss of such distilled spirits it shall be the duty of the State Tax Commission forthwith to collect said tax.

At any time the Governor deems that the General Fund of the Commonwealth is in need of funds in order to carry out the legal appropriations of the General Assembly he is hereby authorized to issue an order directing the Auditor of Public Accounts to issue warrants bearing interest at the rate of five per centum per annum in such sum as shall be necessary which shall be secured by the bonds and/or collateral deposited in accordance with this Act, and such warrants shall be sold by the Governor, upon such terms and conditions as may be favorable to the Commonwealth of Kentucky and in no case below par and accrued interest.

§ 3. Every person engaged in the business or occupation of blending, rectifying or mixing distilled spirits shall pay, in addition to all other taxes provided by law, to the Commonwealth of Kentucky a tax of fifteen cents ($.15) for each gallon of distilled spirits blended, rectified or mixed. And such tax shall become due and payable at the time of blending, rectifying or mixing such distilled spirits, and the lien to secure the payment of same shall attach at once upon such spirits and all other property of such person, whether remaining in the hands of such person or in the hands of a bona fide purchaser for value, and such person shall, within ten days after the close of each calendar month, file a verified statement with the State Tax Commission and the Auditor of Public Accounts as to the number of gallons of such spirits so blended, rectified or mixed in the preceding month and pay the tax due thereon to the Commonwealth of Kentucky.

§ 4. Any person who engages in the business or occupation of selling, bartering or exchanging in this State any distilled spirits manufactured, blended, rectified or mixed outside of this State shall pay a tax of fifteen cents ($.15) for each gallon so sold, bartered or exchanged in addition to all other taxes provided by law. Such tax shall attach to the first sale in Kentucky, and such article shall bear a stamp in evidence of the payment of the tax. In the absence of such stamp the sale shall be void, and the article treated as contraband, in addition to the other legal penalties. The State Tax Commission shall make such rules and regulations as will provide for the proper enforcement of this particular section.

§ 5. If any person fails to pay any of the taxes provided for in this Act in the manner and at the time specified in this Act said taxes shall be declared delinquent and there shall be collected, in addition to the taxes, interest and cost of collection, a penalty equal to twenty per centum of the amount declared delinquent.

§ 6. Any person or officer who violates any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five hundred dollars ($500.00) and not more than ten thousand dollars ($10,000.00) or imprisoned in the county jail for not more than six months, or both so fined and imprisoned in the discretion of the court or jury. A judgment or conviction of any officer shall operate per se as a removal from office, and such person shall forever be disqualified from holding an appointive or elective office in this Commonwealth or any of its political subdivisions.

§ 7. The provisions of this Act are severable and if any of its provisions or any of its penalties shall be held unconstitutional, the invalidity of such provisions and penalties shall not effect the remainder of this Act, it being the legislative intent that this Act would have been adopted notwithstanding invalid provisions.

§ 8. Sections 2, 4, 6 and 7 of Chapter 149 of the Acts of the General Assembly of the 1934 Regular Session are hereby expressly repealed and all other laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only.

By Mr. Records:

H. B. 4. An Act entitled an act providing a tax on Greyhound racing and providing how said tax shall be levied and collected and providing the means and method of levying and collecting same and providing penalties for the violation thereof; to provide for a Greyhound Racing Commission; to prescribe its powers and duties; to fix its compensation; to provide for holding elections; to provide for licensing such racing and apportioning the moneys derived therefrom; to provide for the selling of combination or French pools within the enclosure of licensed race tracks; to provide penalties for the violation of this act and repealing any laws in conflict therewith, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Any corporation formed for the purpose of racing or breeding of Greyhounds and conducting races and contests of speed shall have the power and right, subject to the provisions of this act, to hold one or more race meetings in each year and to hold, maintain and conduct races at such meetings.

At such meetings the corporation or the owners of Greyhounds engaged in such races or others who are not participants in the racing may contribute purses, prizes, premiums or stakes to be contested for; but no person or persons other than the owner or owners of Greyhounds contesting in a race shall have any pecuniary interest in a prize, purse, premium or stake contested for in such race, or be entitled to, or receive any portion thereof, after such race shall have been finished; and the whole of such purse, prize or premium or stake shall be allotted in accordance with the terms and conditions of such race.

Such meetings shall not be held except during the period extending from the first day of May to the first day of November, inclusive in each year. Said races shall be held between the hours of 7:00 P. M. and 12:00 o'clock Midnight and no races are authorized or shall be permitted except during the period aforesaid.

§ 2. A Greyhound Racing Commission is hereby established to consist of three persons to be appointed by the Governor. The members of said commission shall hold their offices for a term of four years and the first commission shall be appointed within twenty days after this act shall go into effect. The Governor will appoint a Secretary for said commission who shall act for a period of two years whose duty it shall be to keep a full and faithful record of its proceedings and preserve at its general office, all books, maps, documents and papers intrusted to its care and who shall perform such other duties as the commission may prescribe. He shall be paid a salary to be fixed by the commission at a rate not exceeding $1,200.00 per annum, which shall be paid by the several racing corporations or associations conducting racing in said State. The commission shall bi-annually make a full report to the General Assembly of its proceedings for the two year period ending with the first day of December preceding the meeting of the General Assembly and shall embody therein such suggestions and recommendations as it shall deem proper.

POWERS OF COMMISSION

§ 3. Said commission shall have the power to prescribe the rules, regulations and conditions under which racing shall be conducted in this State and no such races shall be conducted in this state except by a corporation or association duly licensed by such commission as herein provided. Any corporation or association desiring to conduct such racing may annually apply to the Greyhound Racing Commission for a license so to do. If, in the judgment of the commission, a proper case for the issuance of such license is shown it may grant the same for a term of one year and such license shall contain a condition that all races or race meetings conducted thereunder shall be subject to the rules, regulations and conditions from time to time prescribed by the commission and shall be revokable by the commission for any violation thereof, or whenever the conduct of such licensee shall be deemed by the commission not conducive to the best interest of legitimate racing. But if a license is refused to any applicant or revoked by said commission it shall publicly state its reasons for so doing and said reason shall be written in full in the minute book of said commission, which shall at all times be subject to inspection upon application of any interested person desiring so to do. Said finding of said commission revoking said permit or license shall be subject to review by a court of competent jurisdiction; provided that a refusal of the commission to grant to any racing association or corporation a license to operate or to assign to any racing association the requested number of days in each year for racing at the track of such association or the decision of such commission refusing any license of any association or corporation applying for permits to operate in either event shall not be subject to review by the courts of this state.

§ 4. Race meetings, at which racing shall be permitted for any stake, purse or reward except as allowed by this act, is hereby declared to be a public nuisance and any person acting or aiding therein shall be deemed guilty of misdemeanor and punished by a fine of not less than $500.00 nor more than $1,000.00 for each day of such meeting or racing and in addition thereto, in a suit brought for the purpose by the Greyhound Racing Commission in the Circuit Court of the county where it may be proposed to conduct such unauthorized racing, an injunction may be obtained against the operation of said race meeting.

§ 5. At the time of making application for a permit, the applicant shall deposit with the Racing Commission a cash bond, certified check or bank draft payable to the order of the Racing Commission in an amount equal to $100.00 for each day excluding Sundays, petitioned for in said application. At the close of the last day of the Greyhound Racing Commission for which a permit has been issued as provided for in Section 6 of this Act, the Racing Commission shall refund to such permit holder the sum of $100.00 for each racing day the permit holder paid the Racing Commission the tax due for said day as provided for and at the rate stipulated by this Act; provided, however, if such permit holder has not paid to the Racing Commission the expenses and compensation of representatives assigned to his or its track as provided for in this Act, the commission is authorized and directed to withhold such refund until the same has been paid. In the event, any full day's racing is declared off by the judges on account of inclement weather, muddy track, or any essential part of said racing plant has been rendered unusable by fire, wind, riot or explosion or other cause, the Racing Commission shall refund to the permit holders the sum of $100.00 of their deposit for each day.

§ 6. Upon the filing of an application accompanied by a permit fee or a cash bond, certified check or bank draft as herein provided by any person, association, trust or corporation not in default of payment of any obligation due to the Commonwealth of Kentucky under the provisions of this Act the Racing Commission may issue a permit to such applicant to hold or conduct a Greyhound Racing Commission as authorized in this Act. Such permit shall specify the person, association, trust or corporation to whom the same is issued, the dates upon which such Greyhound Racing meetings are to be held or conducted, the hours of such dates between which such Greyhound Racing shall be permitted, the location of the place, track or enclosure which such Greyhound Racing Meeting is to be held or conducted and shall in writing, evidence the receipt of the payment of the permit fee and the deposit of the cash bond, certified check or bank draft by applicant, and if such permit is issued to such applicant it shall contain a condition that all Greyhound Racing Meetings conducted therein, shall be subject to the rules and regulations of the commission as then existing or as may be from time to time prescribed and promulgated by said Racing Commission. The commission may refuse to award dates or to issue a permit to any applicant if a permit has been previously issued to said applicant and revoked under the authority of this Act or for any cause by it deemed sufficient. Such permit may be suspended, diminished or revoked by the commission for any violation of this Act or of any rule of the commission made under authority of this Act, provided five days written notice is mailed by registered mail to the permit holder which notice shall specify the charges, the time and place of hearing thereon at which hearing the permit holder shall be given the opportunity of presenting evidence and being represented by counsel and the Racing Commission shall immediately enter upon its record of proceedings a memorandum of its action in such suspension, diminution or revocation and its reasons therefor. Such permit shall be non-transferable and shall apply only to the place, track or enclosure specified in the permit.

§ 7. Any person, association, trust or corporation holding a permit to conduct a Greyhound Racing Meeting, may provide a place or places in the racing grounds or enclosure at which they or it may conduct and supervise the combination, French pools, or certificate system of wagering by patrons of legal age on the Greyhound races conducted by such permit holder at such meeting. (Such combination, or French pool or certificate method of wagering upon Greyhound races held at or within such race track and at the time of such Greyhound Racing Meeting shall not be held or construed to be unlawful to the Statutes of the Commonwealth of Kentucky, to the contrary notwithstanding.) Any law in conflict therewith is hereby repealed. No other place except that provided and designated by the permit holder or any method of betting or wagering except the combination or French pools or certificate system shall be used or permitted by the permit holder in which the combination or French pools or certificate system of wagering be conducted by the permit holder on any Greyhound races except the races at the race tracks grounds or enclosure for which the person, association, trust or corporation holds a permit. Each permit holder may retain as commission, not to exceed fifteen per cent of the total of all money wagered each day. The permit holder may also retain the odd cents of all redistributions to be made on all compensation or French pools or certificate system, contributions exceeding a sum equal to the next lowest multiple of ten cents. At the close of each racing day, the permit holder shall pay to the Racing Commission as a tax, three per cent of the total of all money wagered each day. In addition to the aforesaid taxes, each person, association, or corporation authorized to conduct race meetings under this Act shall pay to said Racing Commission fifteen per cent of all moneys received each day for admissions by persons attending said races or the sum of ten cents on each and every admission, whichever sum is the greater. Said payment shall be accompanied by a report under oath showing the total of all said contributions and admissions on the races covered by such report and such other information as said commission may require. If any free passes or complimentary admission cards shall be issued to guests by any licensee, the licensee of such track shall pay to the commission the same tax upon such complimentary admission cards as if same were sold at the regular and usual rate; but nothing herein shall be construed to prevent the issuance of tax free passes to officials and accredited newspaper men and actual employees of the licensee or other person engaged actually in working at such race track, provided, however, that the issuance of all such tax free passes shall be under the regulation or orders of the commission and a list of all officers and employees shall be filed with the commission. The tax herein imposed shall be in lieu of all license excise or occupational taxes to the Commonwealth of Kentucky, or any county, town or political subdivision thereof, except that when any racing meeting is held or conducted in any incorporated city or town, such city and town shall have the right to assess and collect an additional tax against any person, firm, association or corporation conducting Greyhound racing within its corporate limits not to exceed $50.00 per racing day.

§ 8. All moneys collected from the three per cent commission as above referred to and all moneys collected from the sale of admission tickets as above referred to, shall be paid by the racing commission to the State Treasurer of the Commonwealth and said moneys when paid to the State Treasurer shall be allocated to and used for the general common school fund.

§ 9. At least, eighty-five per cent of all persons connected with any race track authorized under this Act, including gatekeepers, announcers, and ushers shall be qualified electors of this Commonwealth of Kentucky, provided, that this section shall not apply to owners and trainers of racing Greyhounds.

§ 10. After any corporation or association duly licensed by this commission has been operating Greyhound Racing in any county for a period of sixty days if the citizens of said county are dissatisfied with Greyhound Racing in said county, an election or referendum may be ordered by the legal voters of said county in number equal to twenty-five per cent of the votes cast therein at the last preceding election provided said number of voters shall sign a petition to that effect in the office and in the presence of the County Clerk of said county, who shall at the time said petition is signed determine whether said signer or signers are qualified voters of said county and after the requisite number of voters have signed said petition, the County Clerk shall certify these facts to the County Judge, whose duty it shall be at the next regular term thereof, after receiving said petitions to make an order in his order book directing an election to be held in such county, to be effected thereby on some day named in said petition, no earlier than sixty days after said application is lodged with the judge of said court, which order shall direct the sheriff or court officer of said county who may be appointed to hold said election, to open a poll at each and all of the voting places in such county, city, town, district or precinct on said date for the purpose of taking the sense of the legal voters of such county who are qualified to vote at elections for county officers upon the proposition whether or not Greyhound Racing shall be conducted in said county.

§ 11. It shall be the duty of the County Clerk to give to the sheriff of the county or such officer as may be appointed to hold said election a certified copy of the order of the county court as it appears on the order book within five days after said order is made; and it shall be the duty of said sheriff or other officer to have said order published in some weekly or daily paper published in the county for at least two weeks before the election and also to advertise the same by printed or written handbills posted at some conspicuous place in each precinct in the county for the same length of time when the election is held for the entire county; the sheriff or other officer shall have the advertisements and notices herein provided for, posted as herein required within seven days after he receives the order of the county court. All elections provided for in this act shall be held by such officers as would be qualified to hold elections for county officers and they shall be selected in the same way, and all elections provided for herein shall be held in accordance with the provisions of the general election laws of the state, except that they shall not be held on the same day with any regular, political nor within thirty days preceding or following any such regular, political election.

§ 12. If it shall be found that a majority of the legal votes cast at any election herein provided for were given for or against Greyhound Racing, it shall be the duty of the canvassing board to certify that fact which certificates shall be delivered to the clerk of the County Court and by him safely kept until the next regular term of the County Court at which term the judge thereof shall have the same spread on the order book and said entry of certificate in the order book or a certified copy thereof shall be prima facie evidence in any and all proceedings under this act.

§ 13. The result of said election when so held under the provisions of this act shall determine the question for a period of five years and no election shall be held again in said county upon the subject for a period of five years thereafter.

§ 14. If any section of this act shall be declared unconstitutional it shall only affect such section and not affect any other section of said act.

§ 15. Whereas, The Commonwealth of Kentucky is in dire need of revenue to sustain and maintain its various institutions of government and the credit of the Commonwealth of

Kentucky is being impaired by lack of sufficient revenue to carry on the various functions of government, and for the purpose of securing immediately the revenue provided under this act an emergency is hereby declared, and this act shall become a law from and after its passage and approval by the Governor.

Ordered that said bills be printed and referred to Committee on Revenue and Taxation No. 1.

Dr. Shields moved that the House do now recess for fifteen minutes.

Said motion was agreed to.

And then the House recessed.

Fifteen minutes having expired, the Speaker resumed the Chair and called the House to order.

Dr. Shields moved that the Rules of this House be suspended for the purpose of allowing the Committee on Revenue and Taxation No. 1 to make a report.

Said motion was agreed to.

Thereupon Mr. Brown of the Committee on Revenue and Taxation No. 1, to which the same had previously referred, reported a bill entitled:

H. B. 1. An Act relating to revenue and taxation on the sale and distribution of alcoholic beverages and declaring an emergency.

With a Committee amendment thereto.

With the expression of opinion that said bill ought to pass.

Said bill was read at length the first time and ordered to be placed on the Calendar.

The Speaker announced that all Republican members of the House, would be granted a leave of absence on tomorrow in order that they might attend the State Republican Convention to be held in Louisville, Kentucky.

Dr. Shields moved that the House do now adjourn until tomorrow at one o'clock P. M.

Said motion was agreed to.

And then the House adjourned.

TUESDAY, MARCH 31, 1936.

The House was opened with prayer by the Reverend Olaf Anderson of the Presbyterian Church, South, of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
W. T. Baker
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Howard G. Early
T. P. Fitzpatrick
Fred A. Gnau
Eugene Gough
Ben Grogan
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson
O. C. Jones
J. F. Ladd
M. T. McCarthy
T. B. McConnell
J. L. McDermott

W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. E. Mull
Rodes K. Myers
J. C. Nickell
Mel Petry
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
P. L. Sidebottom
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
John Kirtley, Spkr.

Mr. Wagner moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Rice moved that the privilege of the floor be extended to Messrs. Josh Cosby and Otis Amis.

Said motion was agreed to.

Mr. Clark moved that the privilege of the floor be extended to Messrs. Foster Cox and R. L. Crowe.

Said motion was agreed to.

Mr. W. T. Baker moved that the privilege of the floor be extended to the Reverend M. S. Clark.

Said motion was agreed to.

Mr. Scheben moved that the privilge of the floor be extended to Mr. Stanley Phistner, Judge Handley and Mr. Helman.

Said motion was agreed to.

The following bills were introduced, viz.:

By Mr. Ftizpatrick:

H. B. 5. An Act entitled an act providing for a tax on Greyhound Racing and providing how said tax shall be levied and collected and providing the means and method of levying and collecting same and providing for the violation thereof.

Said bill is as follows, viz.:

H. B. 5. Identical bill as H. B. No. 4. H. B. No. 5 was not sent to printer.

By Mr. Grogan:

H. B. 6. An Act relating to the raising of county revenue by the levying of license taxes on itinerant peddling and vending of goods, wares or merchandise or other articles of value for private gain or profit frequently or at intervals in a county or counties of this State; defining certain terms used in Act; providing for such levy of license tax and maximum annual amount thereof by the fiscal authority of the several counties of the State; providing that such license shall apply separately to each person, officer or agent so engaged in vending as itinerant peddlers; that levying of such license shall be optional with fiscal court of any county, but if levied shall be for the fiscal year, and that no such license shall issue for less time than the fiscal year of county; stating time and terms of fiscal court when such levy of license may be made, providing for issual of license by county clerk of county upon application of any person and payment of required license fee, and for payment of license money into county treasury to credit of general expense fund; prescribing surrender and forfeiture of license upon conviction for fraud or other improper conduct in connection therewith; confining vending under such license to territory of county outside incorporated limits of cities and towns; specially exempting numerous vending from provisions of Act; fixing penalties for noncompliance or violation of any provisions or requirement of Act; providing separable enactment of sections of Act and that invalidity of any section shall not affect the validity of any other section.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Definitions.—"Peddler", for the purposes of this Act, shall mean any itinerant person vending goods, wares or merchandise or any other article of value not hereinafter specially exempted by the provisions of this Act.

"Itinerant", as used in this Act, means traveling or moving from place to place frequently or at intervals, either in vehicle or on foot, in a county or counties of this State.

"Person", as used herein, shall be construed to mean an individual person, or a firm, association, corporation, or other aggregation of individuals engaged in business for private gain or profit.

"Vending", as used in this Act, means bargaining or selling goods, wares or merchandise or any other article of value and collecting the sale price in whole or in part at the time of sale or thereafter within this State.

"Fiscal Court", as herein used, shall include the fiscal authority of any county in Kentucky, whether composed of the county judge and justices of the peace, or composed of the county judge and three commissioners, or as may be otherwise composed now or hereafter.

§ 2. The fiscal court of any county of this State may levy a license tax in any sum not exceeding Two Hundred and Fifty Dollars ($250.00) per annum upon any peddler, as defined in this Act, who shall engage in vending any goods, wares or merchandise or any other article of value in the county wherein said fiscal court is resident and has jurisdiction.

§ 3. Any such license provided for in this Act and levied by any fiscal court shall apply separately to each person so engaged in vending and shall apply separately to each officer or agent of any corporation, association or other aggregation of individuals or persons so engaged.

§ 4. No such license shall be issued for a fraction of a year, nor for any less period than the full fiscal year covered by levy.

§ 5. The order of any fiscal court levying a license under this Act in any sum may be made at any regular or special term of such court or any adjourned term thereof, and such order of levy, if made, shall be made for the fiscal year at the time other county revenue levies are imposed, and such order shall authorize and direct the county clerk of any such county to issue such license on application of any person, who shall pay the license fee therefor, and said county clerk shall forthwith pay any license fee so collected into the county treasury as part of the general expense fund revenue of the county.

§ 6. Any person, to whom such license has been issued, shall surrender and forfeit same upon conviction for fraud or other improper conduct in connection therewith.

§ 7. Any license issued under this Act shall include the right to vend goods, wares or merchandise or any other article of value, not otherwise forbidden by law, only in the territory of the county of issue outside the limits of the incorporated cities and towns therein.

§ 8. The provisions of this Act shall not apply to delivery of any article of value sold at his regular place of business by any merchant, nor to sales made to dealers by commercial travelers or selling agents in the usual course of business, nor to sheriffs, constables, or other officer or fiduciary selling pursuant to law or order of court, nor to any person selling farm or garden products raised or produced by him, nor to auction sales made by or for fire insurance companies incidental to fire losses when made in the county where the fire damages occurs, nor to the usual public auction or other sales of property owned by residents of a county, nor to livestock sales, nor to sales of poultry for breeding purposes, nor to temporary sales for charitable or religious benefits.

§ 9. Any person violating or failing to comply with any provision of this Act shall, upon conviction, be fined in any sum not less than twenty-five dollars nor more than five hundred dollars for each such offense.

§ 10. It is the legislative intent that the sections of this Act shall be and are hereby separably enacted and that, should any section of this Act be held unconstitutional or invalid by court ruling, then such invalidity of any section shall not affect the validity of any other section of this Act.

Ordered that said bills be printed and referred to the Committee on Revenue and Taxation No. 1.

The House took up for consideration from the Calendar, a bill entitled:

H. B. 1. An Act relating to revenue and taxation on the sale and distribution of alcoholic beverages and declaring an emergency.

Ordered that said bill be read the second time.

The Constitutional provision as to the second reading of said bill at length being dispensed with, said bill was read the second time by its title only.

Ordered that said bill be placed in the Orders of the Day.

Mr. McDermott moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

WEDNESDAY, APRIL 1, 1936.

The House was opened with prayer by the Reverend Olaf Anderson of the Presbyterian Church, South, of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer

J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
Mr. Speaker

Mr. MacDonald moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Mollett moved that the privilege of the floor be extended to Mr. John Spears of Johnson County.

Said motion was agreed to.

Mr. Bedford moved that the privilege of the floor be extended to Mrs. Fannie Louise McDaniel and Mrs. John T. Taylor.

Said motion was agreed to.

Mr. Garrett offered the following resolution, viz.:

H. Res. 1. Resolution providing for the appointment of a Committee to wait upon the Governor in regard to county relief.

Said Resolution is as follows, viz.:

Whereas, The Governor of the Commonwealth of Kentucky, the Honorable A. B. Chandler, has heretofore adopted the policy of convening the General Assembly into special session for the purpose of reorganizing, budgeting and raising revenue to operate the various departments of the Government, and

Whereas, In all of said calls for special sessions of the General Assembly there has been no call or there has not been included in any of the said calls any provision which was adequate to take care of the various counties of the State of Kentucky, and

Whereas, The counties of this State are in a serious financial difficulty and a great number of said counties are heavily in debt and still a great number have a large bonded indebtedness, and

Whereas, The said counties are unable from the revenue now available to pay for the current operating expenses of the county government and to pay the floating indebtedness of the bonded indebtedness of said counties, and

Whereas, The said counties need some legislation to immediately raise revenue for the above mentioned purposes. Now, Therefore,

Be it Resolved by the House of Representatives the Senate concurring therein:

That the General Assembly of Kentucky appoint a committee of not less than five nor more than eleven members to be chosen by the Speaker of the House and the Lieutenant Governor in the Senate, to call upon the Governor of Kentucky with the request that he amend the call for the special session which is now in session or to immediately after the adjournment of this session call another special session and include in said call a provision for the various counties of this State.

Mr. Hammons moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Said resolution was then adopted.

Mr. Gnau moved that the session of today be extended indefinitely.

Said motion was agreed to.

Dr. Shields moved that the Rules of this House be suspended for the purpose of taking up for consideration the Orders of the Day.

Said motion was agreed to.

Thereupon the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 1. An Act relating to revenue and taxation on the sale and distribution of alcoholic beverages, and declaring an emergency.

With a Committee amendment thereto.

Said bill is a follows, viz:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* Whenever used in this Act, unless the context requires otherwise:

(1) ''Person'' means and includes individuals, partnerships, joint stock companies, associations, fiduciaries, and corporations.

(2) ''Alcohol'' means and includes ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process produced.

(3) ''Alcoholic beverage'' means and includes alcoholic

spirits, liquor, rum, wine, beer, and every liquid or solid, patented or not, containing one per cent or more of alcohol by volume and capable of being consumed by a human being, and every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. Provided, that there is excepted from this definition of alcoholic beverages the following: (a) medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, national formulary of the American Institute of Homeopathy that are unfit for use for beverage purposes; (b) patented, patent and proprietary medicines that are unfit for use for beverage purposes; (c) toilet, medicinal and antiseptic preparations and solutions that are unfit for use for beverage purposes; and (d) flavoring extracts and syrups that are unfit for use for beverage purposes.

(4) ''Beer'' means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute therefor.

(5) ''License'' means any person to whom a license has been granted by the State of Kentucky or agency thereof to engage in the manufacture, distribution, sale, transportation, or other traffic in alcohol.

(6) ''Manufacturer'' means and includes a brewer, vinter, distiller, or rectifier and any other person, whether included in the aforesaid categories or not, engaged in the production and/or bottling of alcoholic beverages. ''Bottling'' means the placing of alcoholic beverage in any retail container irrespective of the material from which said container is made.

(7) ''Wholesaler'' means any one, whether distributor, jobber, broker, agent, or other person, whether enumerated in this Act or not, who distributes alcoholic beverages for the purpose of being sold at retail; provided, that after July 1, 1936, the term ''wholesaler'' shall not be deemed to include

any subsidiary of a manufacturer or cooperative of retail outlet.

(8) ''Retail outlet'' means and includes retailers, hotels, restaurants, railroad dining cars, clubs, and any person who sells alcoholic beverages to consumers or to any person other than a manufacturer licensed under the laws of Kentucky or of some other State or a wholesaler licensed under the laws of Kentucky or of some other State or a retail outlet licensed under the laws of Kentucky or of some other State or a State or Commonwealth or a State or Commonwealth liquor corporation.

(9) ''Retail sale'' means sale by a retail outlet.

(10) ''Retail container'' means and includes any bottle, can, barrel, or other container which without separable intermediate container holds alcoholic beverage and which is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not.

(11) ''Spirits'' mean and includes whiskeys, brandies, distilled spirits, cordials, liquors, alcohol, and any other alcoholic beverage, whether or not included in the aforesaid categories, except beer, and wine which contain less than 24 per cent of alcohol by volume.

(12) ''Wine'' means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne, sparkling, and fortified wine of an alcoholic content not to exceed 24 per cent by volume.

(13) ''Department'' means the Department of Revenue of Kentucky.

§ 2. *Rate of tax on beer.* There is hereby levied upon the sale or distribution by sale or gift a tax of one dollar and fifty cents ($1.50) on each barrel of thirty-one (31) gallons and a like or proportional rate per gallon, or fractional part thereof, on beer sold or distributed in any other container of more or less than thirty-one (31) gallons.

§ 3. *Rate of tax on wine.* There is hereby levied upon the sale or distribution by sale or gift tax of twenty-five cents ($0.25) on each gallon of wine, and a like or proportional rate per gallon on wine sold or distributed in any other container of more or less than one gallon; provided that in no event may the tax be less than five cents ($0.05) on the sale or distribution of any retail container of wine.

§ 4. *Rate of tax on spirits.* There is hereby levied upon the sale or distribution by sale or gift a tax of one dollar and four cents ($1.04) on each wine gallon of spirits and a like or proportional rate per gallon on beverages sold or distributed in any other container of more or less than one gallon. Nothing herein contained shall affect or be deemed to affect or to repeal, amend, or modify any tax imposed by any provisions of chapter one hundred and forty-nine (149) of the Acts of the General Assembly of 1934, except section 3 (section 4214a-14, Carroll's Kentucky Statutes, 1934 Supplement) thereof which is hereby repealed.

§ 5. *Who shall pay tax.* The manufacturer, wholesaler, or other licensee who manufacturers, bottles, cans, or otherwise places any alcoholic beverage in any retail container for eventual retail sale or distribution by gift or retail sale shall pay the tax imposed in this Act, at or prior to, any sale or distribution by gift or sale of such beverage in Kentucky.

§ 6. *Importer shall pay tax.* The wholesaler or manufacturer who imports any alcoholic beverage in any retail container for eventual retail sale or distribution by gift or retail sale in this State shall pay the tax imposed in this Act and affix the stamps as provided herein upon such beverage before the same shall be sold or offered for sale or distribution by gift or sale; provided that said tax shall be paid and said stamps shall be affixed in every instance within twenty-four (24) hours after receipt of said beverage by the importer thereof.

§ 7. *Failure to pay tax.* In the event that the licensee or any other person who places any alcoholic beverage in any retail container, or who imports such beverage in any retail container, fails to pay the tax imposed in this Act when due, the purchaser thereof and each subsequent purchaser or other recipient in turn becomes liable for the tax. Provided, that this section shall not relieve the preceding licensee from liability for the tax and for any penalties prescribed in this Act for violation thereof.

§ 8. *Purchase of alcoholic beverage by manufacturer or wholesaler.* No manufacturer of alcoholic beverages shall sell or distribute by gift or sale any such beverages except to another manufacturer or to a wholesaler.

No wholesaler shall sell or distribute by gift or sale any alcoholic beverages except to another wholesaler or to a retail outlet, provided however that manufacturers of beer may sell to retail outlets situated in the county in which the beer manufacturer's brewery is located or may sell to consumers for personal use and not for resale.

§ 9. *Purchase of alcoholic beverage by retail outlet.* No retail outlet shall purchase or have in possession any alcoholic beverage, other than beer purchased from a Kentucky manufacturer, which shall have been purchased from other than a licensed Kentucky wholesaler not a manufacturer. No common carrier or other person shall transport into the State any alcoholic beverage unless said beverage shall be consigned to a licensee other than a retail outlet. Provided, that the proprietor of a licensed railroad dining car may purchase for sale in such car alcoholic beverages from wholesalers outside the State when the tax imposed by this Act on such beverages shall have been paid before entry into the State.

§ 10. *Stamps evidence of payment of tax.* The person who pays the tax on any alcoholic beverage shall evidence the payment by the purchase and affixing of stamps issued by the Department, which stamps he shall place upon each retail container in such a manner as the Department may prescribe.

§ 11. *Who shall sell stamps.* The Commissioner of Revenue shall prescribe, prepare or cause to be prepared, and have available for sale, stamps of such denomination, kinds, and quantities as he shall deem necessary for the payment of taxes imposed by this Act.

§ 12. *Out-of-state vendor may purchase stamps.* Vendors of alcoholic beverages without the State, licensed to sell such beverages by their own states and by the Federal government, may purchase stamps from the Commissioner of Revenue of Kentucky and affix them in the manner prescribed by said Commissioner to retail containers of alcoholic beverages to be sold to wholesalers in Kentucky for eventual retail sale or distribution by gift or retail sale in this State, or to proprietors of licensed railroad dining cars; in which event the importer of such alcoholic beverages within the State shall not be required to pay the tax on such beverages nor to affix the stamps.

§ 13. *Prohibition of sale without stamps.* No alcoholic beverage in retail container shall be sold for eventual retail sale or distribution by gift or retail sale in the State unless a stamp evidencing payment of the tax on said alcoholic beverages is in place on such container. No common carrier or other person shall transport alcoholic beverages in retail containers from one point to another within the State unless such stamp is in place. No retail outlet shall purchase or have in possession any alcoholic beverage except in retail containers to which such stamps have been properly affixed.

§ 14. *Sales by licensees when ultimate destination is undetermined.* The sale or distribution of alcoholic beverages manufactured in, or imported into, this State for shipment permanently out of the State to be sold and consumed without the State shall not be subject to the taxes imposed by this Act. Provided, however, that the containers of such alcoholic beverages for shipment permanently out of the State to be sold and consumed without the State shall have affixed thereon, in such manner as the Department may prescribe a stamp provided under chapter 149, Acts of the General Assembly of 1934 or (if no such stamp is required) an export stamp to be issued by the Department without charge.

§ 15. *Only one tax required.* Nothing in this Act shall be construed to require the payment of the tax imposed herein on the sale of the same alcoholic beverages more than once. The Commissioner of Revenue is empowered to issue stamps without charge to any licensee when necessary to give effect to this section.

§ 16. *Cancellation of stamp.* It shall be the duty of the person, whether retailer, consumer, or other, who opens each retail container of alcoholic beverage, to deface and cancel all tax stamps on such container at the time it is first opened. Provided, that any retailer shall leave all such cancelled stamps in plain view unless the container is empty of alcoholic beverage.

§ 17. *Stamps affixed to barrels.* The licensee who sells any alcoholic beverage destined to be sold to any retail outlet in barrels or other containers which are not ordinarily suitable for delivery to the consumer shall pay the tax herein imposed on the sale of the beverage before selling or offering it for sale and shall affix the stamps in the manner prescribed by regulation, unless such tax has already been paid and such stamps affixed.

§ 18. *Possession of unstamped alcoholic beverage.* The possession of unstamped alcoholic beverage, except as otherwise explicitly provided herein, shall be deemed *prima facie* evidence that such beverage is possessed with the intent to sell or distribute the same contrary to law.

§ 19. *Report of licensee.* For the purpose of assisting in the enforcement of this Act, every licensee, whether subject to the payment of taxes imposed by this Act or not, on or before the tenth day of each month, shall render to the Commissioner of Revenue a sworn or affirmed statement in writing of all of his trafficking in alcohol during the preceding month. Such statement shall be taken directly from the books of such licensee, and shall set forth, on forms furnished by the Commissioner, the quantities, kinds, and destinations of alcoholic beverages purchased, held, and sold; the tax stamps purchased, affixed, and on hand; and such additional information as the Commissioner may require. Such statement shall include alcohol destined for industrial and other non-beverage purposes, and alcoholic beverages destined for sale outside the State, as well as alcoholic beverages subject to the tax imposed by this Act.

Every person who shall import any alcoholic beverage in Kentucky for the purpose of sale or distribution by gift or sale in this State or any other State is hereby required to transmit to the Commissioner of Revenue within twenty-four (24) hours after receipt of same an original copy of each invoice for such beverage.

§ 20. *Powers of the Department of Revenue.* The administration of this Act is vested in the Department of Revenue, which may prescribe forms and promulgate rules and regulations needed for the enforcement of this Act.

The Department, through a representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment and/or inventory of any person made liable for any tax under the provisions of this Act; to examine witnesses under oath for purposes appropriate for enforcement of this Act; and to examine the books, records, papers, files, equipment and/or inventory of manufacturers, wholesalers, retailers, or carriers for the purpose of determining whether the Act is being violated.

The Department shall have the power to institute legal proceedings by the Attorney General of Kentucky, or any attorney duly authorized by him, for the purpose of ascertaining the amount of tax due and/or enforcing the collection thereof with penalties and interest thereon, and for the pur-

pose of enjoining the operation of the business of the delinquent.

The Department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalty and interest thereon, as set out herein, have an attachment against the property of the person liable for tax or garnishment of his creditors without the execution of bond on the filing of an affidavit showing the nature of the claim, that it is just, the sum which the Department believes the Commonwealth should recover, on any of the grounds provided by the Civil Code of Practice for the issuance of an attachment in civil cases.

§ 21. *Commissioner of Revenue to Require Information.* The Commissioner of Revenue shall require common carriers to provide information in such form as he may deem wise respecting all shipments of alcoholic beverages to, from, or between persons in Kentucky.

§ 22. *Violation of this Act.* (a) In addition to the remedies herein granted the Commonwealth for such violations, any person who shall violate any of the provisions of this Act shall also be deemed guilty of a misdemeanor and punished by a fine of not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000.00), or by imprisonment of not less than thirty (30) days nor more than one (1) year, or by both such fine and imprisonment. Provided, that in case such violator be a corporation, joint stock company, association or fiduciary, then the principal officer and/or the officer or officers responsible for such violation may be punished by such imprisonment.

(b) Any person required under this Act to pay any tax herein imposed who shall fail to pay the tax due in the time specified in this Act shall pay a penalty equal to twenty per cent (20%) of the amount of the tax due and delinquent together with interest at six per cent (%) per annum. In addition to all other penalties herein imposed, the department of

Revenue shall report such delinquency to the Department of Business Regulation, which may revoke the license of such person.

(c) If any person shall force, counterfeit, or alter any stamp, receipt or writing providing for by any provision of this Act with intent to defraud the Commonwealth, or if he shall be concerned in printing, writing, signing, uttering, or passing any such forged and counterfeit papers (whether passed separately or attached to a retail container) as above described, knowing the same to be forged and counterfeited, he shall be confined in the penitentiary not less than two (2) nor more than ten (10) years.

§ 23. *Tax on sale of inventories on hand.* As to stocks of alcoholic beverages in the hands of a wholesaler or retail outlet and acquired before but on hand when the taxes imposed by the previous sections of this Act becomes effective, there is hereby imposed for the first sale or distribution by gift or sale thereof after such effective date of the aforementioned taxes, a tax equal in amount to that imposed by the previous sections of this Act on the sale or distribution by gift or sale of the alcoholic beverage like in kind to that so sold or distributed by gift or sale.

Payment of the tax imposed by this section must be evidenced by the affixing of stamps purchased from and issued by the Department on the retail containers of such beverages in the same fashion and manner as the other stamps mentioned in this Act are required thereby to be affixed. Such affixation must be made not later than one o'clock A. M., of the effective date of the taxes mentioned in the previous sections of this Act.

§ 24. *Disposition of revenue.* All revenues collected under the provisions of this Act shall be covered through the Department of Finance into the State Treasury and credited to the General Expenditure Fund. Brewers and wholesalers of beer are hereby authorized to deduct from the amount of the tax collected under the provisions of this act three (3) per cent of the said amount to cover expenses incident to the reporting and remitting of such taxes as provided in this Act.

§ 25. *Emergency.* Whereas the present State revenue does not meet the immediate needs of the maintenance of the State government, its agencies and subdivisions, an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor.

Be it provided, however, that pending preparation of stamps and development of other administrative plans, the effective date of sections 2, 3, 4 and 22 shall be one o'clock A. M., of the date three calendar weeks from the day this measure is approved by the Governor.

Said Committee amendment is as follows, viz.:

Amend H. B. 1, Section 2, Subsection B after the word "tax" by striking out the word "dye" and substituting in lieu thereof the word "due".

Mr. Joe E. Robinson moved that Dr. Martin, Chairman of the Tax Commission be invited to appear before the House for an open discussion of said bill.

Said motion was agreed to.

Mr. Myers moved that the House do now resolve itself into a Committee of the Whole House for the purpose of hearing Dr. Martin discuss said bill.

Said motion was agreed to.

Thereupon the Speaker vacated the Chair and designated Dr. Shields as Chairman of the Committee of the Whole House.

Mr. Kirtley moved that the Committee of the Whole House do now arise.

Said motion was agreed to.

The Speaker having resumed the Chair, Dr. Shields, Chairman of the Committee of the Whole House reported progress.

Dr. Shields moved that the House do now recess until two o'clock P. M.

Said motion was agreed to.

And then the House recessed.

AFTERNOON SESSION

The hour of two o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

The House resumed consideration of the matter under discussion, to wit:

H. B. 1. (For title see House Journal of today, *ante.*)

With a Committee amendment thereto.

(For Committee amendment see Journal of today, *ante.*)

Said amendment as offered by the Committee was then adopted.

Mr. Douglas offered the following amendment to said bill, viz.:

Amend Section 10, page 5 by adding at the end of line 5, the following:

"Provided, however, that notwithstanding section 5 of this Act, the Commissioner of Revenue, in the case of beer, may order that persons selling to retailers affix said stamps to invoices. Provided, further, that said retailers shall keep all said stamp invoices for a period of two years for examination by the Commissioner or his authorized agent."

Said amendment was agreed to.

Mr. Douglas Bolling offered the following amendment to said bill, viz.:

Amend Section 1, subsection 12, page 3, by adding at the end of line 61, the following:

"Provided, however, that "wine" shall include preparations or mixtures vended in retail containers if such preparations or mixtures contain not to exceed fifteen per cent (15%) of alcohol by volume."

Said amendment was agreed to.

Mr. Gnau offered the following amendment to said bill, viz.:

Amend H. B. 1 by striking therefrom on page 5, of the printed bill, in lines 7 and 8, the following words, "situated in the county in which the beer manufacturer's brewery is located."

Said amendment was agreed to.

Mr. Myers offered the following amendment to said bill, viz.:

Amend H. B. 1 by striking lines 1, 2, 3, 4, 5 and 6 of Section 5 and add in lieu thereof the following:

"Every wholesaler, jobber or other licensee who offers any alcoholic beverages in any retail container for eventual resale or distribution by gift or retail sale shall pay the tax imposed in this act, at or prior to, any sale or distribution by gift or sale of such beverage in Kentucky."

Said amendment was disagreed to.

Mr. Howard offered the following amendment to said bill, viz.:

Amend H. B. 1, section 4, lines 1 to 9, inclusive, so that when so amended, said section 4 will read as follows:

"There is hereby levied upon the sale or distribution by sale or gift a tax of forty-eight cents (48c) on each wine gallon of spirits and a like or proportional rate per gallon on beverages sold or distributed in any other container of more or less than one gallon. Every person engaged or proposing to engage in manufacturing, selling and transporting distilled spirits in this state, for such uses and purposes as may be lawful, shall obtain from the State Tax Commission a permit to engage in the business or occupation of manufacturing, transporting and selling distilled spirits for said purposes and shall at the time of the issual of said permit, pay to the Commonwealth of Kentucky, in addition to the other license taxes provided by law, an excise tax on ten cents (10c) for each proof gallon of distilled spirits for which said permit is issued. Nothing herein contained shall affect or be deemed to affect or to repeal, amend, or modify any tax imposed by any provisions of chapter one hundred and forty-nine (149) of the Acts of the General Assembly of 1934, except sections 2 and 3 (Sections 4214a-13 and 4214a-14, Carroll's Kentucky Statutes, 1934 Supplement) thereof which is hereby repealed.

The Speaker ruled said amendment out of order inasmuch as a portion of said amendment pertains to a production tax and a portion thereof pertains to a retailers tax.

Mr. Milam offered the following amendment to said bill, viz.:

Amend H. B. 1, by striking therefrom all of section 14, page 6, of the printed bill, and inserting in lieu thereof, the following:

"Sales by licensees when ultimate destination is undetermined. The sale or distribution of alcoholic beverages manufactured in, or imported into, this state for shipment permanently out of the state, or to be sold and/or consumed without the State shall not be subject to the taxes imposed by this Act. Provided, however, that the containers of such alcoholic beverages for shipment permanently out of the State, or to be sold and/or consumed without the State shall have affixed thereon, in such manner as the Department may prescribe a stamp provided under Chapter 149, Acts of the General Assembly of 1934 or (if no such stamp is required) an export stamp to be issued by the Department without charge, and no sale of alcoholic beverages shall be considered a sale within the provisions of this Section unless the purchaser or his agent shall execute an affidavit that said alcoholic beverages are to be sold or consumed without the State of Kentucky, which affidavit shall be kept on file by said licensee for a period of one year. It shall be mandatory upon the Department to furnish the export stamps hereinabove provided upon application of any lincensee."

Said amendment was agreed to.

Mr. Douglas Bolling offered the following amendment to said bill, viz.:

Amend H. B. 1, by striking the numeral "22" from Section 25, line 8, and inserting in lieu thereof the numeral "23".

Said amendment was agreed to.

Mr. Douglas Bolling moved the Previous Question.

Whereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard

Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
Mr. Speaker
—95

Resolved that the title thereof be as aforesaid.

Mr. Douglas Bolling moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Carter moved that the Rules of this House be suspended for the purpose of offering a resolution.

Said motion was agreed to.

Thereupon Mr. Carter offered the following resolution, viz.:

Whereas, the Attorney General of the Commonwealth of Kentucky has held that honorary titles issued by former Governors of Kentucky are void, and

Whereas, a number of Kentucky colonels and their dependents are in a fair way to become charges of the Commonwealth by reason of their loss of title, and

Whereas, the Commonwealth is morally responsible for this situation in having given tacit approval to the appointment of Kentucky colonels, admirals and other honorary aides to the Governor. Now, Therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky, That

§ 1. A poll tax of $10.00 per annum be and is hereby levied upon every unmarried male citizen of Kentucky over the age of 21 years and under the age of 60 years, to be collected by the Department of Revenue of the Commonwealth for the sole purpose of providing a bonus fund for the relief of those persons who have been granted honorary commissions prior to January 1, 1936.

§ 2. Out of said bonus fund, beginning on January 1, 1906, each and every person holding an aforesaid honorary commission, now held void, but issued by a Governor of Kentucky prior to January 1, 1936, be and is hereby directed to be paid an annual bonus of $100.00 for a period of five years, the last such payment to be made on January 1, 1965.

Said resolution was referred to the Committee on Revenue and Taxation No. 1.

Dr. Shields moved that the Rules of this House be suspended for the purpose of introducing bills.

Said motion was agreed to.

Thereupon the following bills were introduced, viz.:

By Mr. Larrimore.

H. B. 7. An Act requiring auctioneers doing business in the State of Kentucky, either residents or non-residents of the said State, to obtain a license before doing any of the said business pertaining to auctioneers, fixing the amount of said license, and providing for the manner in which same are to be issued, defining auctioneers, and prescribing penalties for the violation of the provisions hereof, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The word "auctioneer" as used herein shall mean any person who shall sell at public auction any property, tangible, intangible personalty, or real property, at public outcry for another, whether upon a commission basis, cash, percentage, or so much per day. All persons engaged in the business of auctioneer as herein provided or performing any of the duties relating to, or pertaining in any way to the sale of any of said property at public outcry shall be deemed an auctioneer.

§ 2. On and after the passage and approved of this Act, every person engaged as an auctioneer, and performing any of the duties, or carrying on the business of an auctioneer as herein defined shall apply to the Circuit Court Clerk of the County of his residence for a license which shall be known as an auctioneer's license. Said license shall be issued by the Circuit Court Clerk to the applicant for a period of one year, and all licenses so issued shall expire on the 30th day of June of any year thereafter. No license to carry on the business of auctioneer shall be issued for a longer period than one year.

§ 3. Any person desiring to engage in the business of auctioneer within this State, if he be a resident of the State of Kentucky, shall file his written application with the County

Court Clerk of the County of his residence, and said application shall state whether, or not, the applicant desires to engage in the business of auctioneer in one or more counties, in the State of Kentucky. The Circuit Court Clerk of the County where said application is filed shall issue to the applicant a license to engage in the occupation of auctioneer in one or more counties of this State, as shown by the application, when the applicant has paid to the said Clerk the following license tax: If the application is for one county the applicant shall be required to pay to the said Clerk the sum of Ten Dollars ($10.00) for said license, and in addition thereto the sum of fifty cents (50c) for the issuing of same by the Clerk. If for more than one county the applicant shall pay to the Clerk the sum of Twenty-Five Dollars ($25.00) and in addition fifty cents (50c) to the Clerk for the issuing of same, and if the applicant be a non-resident of the State of Kentucky, he shall pay to the said Clerk the sum of Fifty Dollars ($50.00) and in addition thereto fifty cents (50c) for the issuing of same.

§ 4. Any person obtaining a license as above set out shall be entitled to engage in the business of auctioneer in the County of his residence, except those persons who are paying license for more than one county, and non-resident auctioneers who shall be entitled to engage in the business of auctioneering in any County in the State of Kentucky.

§ 5. The Circuit Court Clerk shall make monthly reports to the Auditor of Public Accounts of all licenses sold under the provisions of this Act, and shall remit to said Auditor all moneys collected by him for licenses as herein provided, and said moneys shall be covered into the State Treasury, and credited to the general fund of the State of Kentucky. Provided, however, the Circuit Court Clerk who shall have issued said license shall retain the fifty cents (50c) for each license issued, as his fee for issuing same.

§ 6. Provided, however, that nothing herein shall be deemed to require Master Commissioners of the various Circuit Courts of the Commonwealth of Kentucky, or Sheriffs, or other officers designated by the Courts of this Commonwealth, or Federal or bankrupt courts to obtain license to auctioneer and sell property, and the above named shall be permitted to sell without payment of any tax, or obtaining license as provided for herein, when the above named persons are acting under, or selling the said property by virtue of an order of Court.

§ 7. Any person, persons, firms, corporations, or partnerships, or other associations who shall violate any provision of this Act, or shall in any way engage in any of the business of an auctioneer as herein defined without first obtaining a license, as provided herein, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than Twenty-Five Dollars ($25.00) nor more than One Hundred Dollars ($100.00). It is the intention of the Legislature at this Special Session to raise revenue for the purpose of paying the State's indebtedness, and the current operating expenses of the State Government, and whereas the State of Kentucky now is in serious need of revenue to pay the operating expenses of the government, an emergency is hereby declared to exist, and this Act shall become effective immediately upon the passage and approval by the Governor.

All laws in conflict herewith are hereby expressly repealed.

By Mr. Garrett:

H. B. 8. An Act relating to Revenue and Taxation, imposing an excise tax on the sales of certain persons, firms, corporations, associations, co-partnerships and other forms of business organizations engaged in selling at wholesale or retail certain types of personal property providing for the enforcement of said Act, the collection and distribution of the revenue arising therefrom, and repealing all conflicting laws.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. This act shall be known and may be cited as the Dealer's Tax Law.

§ 2. The term "wholesale dealer" is hereby defined for the purposes of this act as a person regularly engaged in the sale of tangible personal property at wholesale to retail dealers for the purpose of resale. This term shall also apply to manufacturers and jobbers and all others when engaged in the sale of such personal property to retail dealers for the purpose of resale.

The term "retail dealer" is hereby defined for the purposes of this act as a person regularly engaged in the sale of tangible personal property not intended for resale. The term, however, does not include persons making sales of material which enters into and becomes a part of a finished product to be offered for sale, including the container in which such product is sold; sale by farmers of commodities which they or their tenants or employees have produced on their farms, or sales of coal by the producers in quantities of not less than forty tons, sales of newspapers or of the space therein, or retail sales of gasoline, or sales of spirituous, vinous, malt or intoxicating liquors on which an excise tax at a different rate from that herein provided, may now be, or hereafter may be levied, and sales of time on the air by radio broadcasting stations.

The term "Person" is hereby defined for the purposes of this act as including any individual, co-partnership, association, corporation, trust or other form of business organization, engaging in the business of wholesale dealer or retail dealer as herein defined.

§ 3. An excise tax is hereby imposed on every wholesale dealer within the Commonwealth of Kentucky, equal to three per centum (3%) of the purchases of such retail dealer of tangible personal property made to retail dealers within the Commonwealth of Kentucky, made after this act becomes effective, and said tax shall be paid to the Commonwealth of Kentucky monthly on or before the 15th day of the month following the end of each month, after this act becomes effective.

§ 3a. An excise tax is hereby imposed on every retail dealer within the Commonwealth of Kentucky, equal to three per centum (3%) of the purchases of such retail dealer of tangible personal property which has not been obtained from a wholesale dealer within this Commonwealth or upon which the excise tax of three per centum (3%) has not been paid by the wholesale dealer, made after this act becomes effective, and said tax shall be paid to the Commonwealth of Kentucky monthly on or before the 15th day of the month following the end of each month, after this act becomes effective. No retail dealer to be taxed on tangible personal property which he had at the time this act becomes effective.

§ 4. Said wholesale dealers and retail dealers shall keep a daily record of all sales subject to taxes under this act, and shall report such sales and the amount thereof each month on forms which shall be prescribed and furnished by the State Tax Commission of Kentucky to all persons liable for the payment of taxes under this act. The administration of this act is vested in the State Tax Commission, which may prescribe forms and promulgate rules and regulations necessary for the enforcement of this act.

The State Tax Commission or any representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment and inventory of any person taxable under the provisions of this act, and to examine witnesses under oath for purposes involving the enforcement of this act.

§ 5. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and punished by a fine of not less than five dollars nor more than five hundred dollars for each offense.

Any person, required under this act to make reports and pay a tax, who shall fail to pay the tax in the time specified in this act, shall be subject to a penalty equal to twenty per centum (20%) of the amount of the tax due and delinquent, and, in addition thereto, interest at the rate of six per centum (6%) per annum.

§ 6. The aggregate total of the revenue collected from the operation of this act shall be covered through the Auditor of Public Accounts into the State Treasurer, and two-thirds thereof shall be credited to the general expenditure fund. One-third thereof shall be credited to the one hundred and twenty (120) counties by the Auditor of Public Accounts, on or before the 15th day of the second month following the end of each quarter, be credited to a fund to be known as the "County Road Fund" and shall distribute said fund immediately to the several counties of the Commonwealth in the following manner:

One-third of the said County Road Fund shall be distributed to the one hundred and twenty counties of the State, on a basis of population; that is to say each county shall receive that proportion of said fund which its population bears to the population of the State. In determining the population of the state and several counties, the Auditor shall use as a basis the latest official United States census report. One-third of said County Road Fund shall be distributed to the one hundred and twenty counties of the State on a basis of square mile area; that is to say that each county shall receive that proportion of said fund that its square mile area bears to the square mile area of Kentucky. One-third to be divided equally among the one hundred and twenty counties of Kentucky.

The treasurers of the several counties of the Commonwealth shall receive and accept the funds so transmitted to them and credit them to the road fund of their respective counties. The fiscal courts of the respective counties shall direct the payment of said funds for county road and bridge purposes, including payment of bonds or other obligations heretofore issued or incurred, or which may hereafter be issued or incurred, for road and bridge purposes in the discretion of said fiscal courts.

§ 7. All laws or parts of laws in conflict herewith are hereby repealed. The Act included in Chapter 25, Acts of Special Session of the General Assembly of 1934, known as the Gross Receipts Tax Law of 1934, is hereby expressly repealed, said repeal to become effective immediately upon the approval of this act.

§ 8. Whereas, the recent Gross Receipts Tax Law was repealed and revenue is now much needed, an emergency is declared to exist; and this act, shall become a law and be effective upon its passage and approval by the Governor.

By Mr. Wells:

H. B. 9. An Act relating to revenue and taxation; providing a license tax on the business or occupation of cemetery memorial dealers and on salesmen selling or offering to sell cemetery monuments, memorials or marks or soliciting orders therefor and providing a penalty for the violation of the provisions thereof.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

As follows:

§ 1. That it shall hereafter be unlawful for any person, firm, association or co-partnership or agent or salesman therefor to engage in the business or occupation of cemetery memorial dealer or salesman of cemetery monuments, memorials or markers, or to sell, offer to sell, or solicit any order or orders therefor, in this state, without first procuring and having a license issued by the county court clerk of the county of his residence authorizing him so to do, if he be a resident of this Commonwealth, and paying the license tax therefor, and a non-resident of this state so doing shall first procure a license and pay said tax in the county in this state in which he or it has or maintains his or its chief business or place of business and all of said dealers salesman and agents shall at all times have and submit said license to the inspection of any Commonwealth or county attorney or any conservator of the peace or police officer demanding to see same.

§ 2. Any person desiring to act as a cemetery memorial dealer, or agent for any dealer, or salesman of cemetery monuments, memorials or markers in this state shall file with the county court clerk of the county of his residence, if he be a resident of this state, and if not but intending so to engage then with the said clerk in the county where he has or intends to conduct his chief business or place of business, an application for a license authorizing him so to do, setting forth the following facts:

(a) The kind of license desired.

(b) The name and address of the applicant, and if the applicant be a firm or co-partnership the name and postoffice address of each member thereof together with the chief place of business of said firm; if the applicant be a corporation its chief place of business and the name and address of its president, vice-president, secretary and treasurer, together with the name and address of such person as has been designated with the Secretary of State on whom process may be served, if any, and shall pay to said clerk at said time the license tax provided in this Act.

(c) All applications for such licenses shall be verified by the applicant and every application for a dealer's license in this state under this Act shall be supported by the affidavit of some reputable resident of the county in which application is made that the applicant is trustworthy, and the application for such salesman's license shall be accompanied with like affidavit as to his trustworthiness and in addition thereto with the affidavit of his employer or the chief officer thereof, if such employer is a firm or corporation, stating that the applicant is trustworthy.

"Person" as used in this Act shall be construed to mean and include any individual, firm, co-partnership, association of persons or corporation which shall engage in the business or do any act herein named.

"Dealer" as used in this Act shall be construed to mean and include any individual, firm, co-partnership or corporation who sells or offers for sale at retail any cemetery memorial, monument or marker in this state or solicits such business and has a regular place of business where such memorials are displayed and lettered. "Salesman" or "agent" as used in this Act shall be construed to mean any person other than a dealer as herein defined who sells or offers to sell at retail, or who solicits any order or orders for cemetery memorial or memorials, monument or monuments, or marker or markers in this state, but shall not include the president, vice-president, secretary or treasurer of a corporation, or the designated member of a co-partnership or association who engages in business as a dealer under its dealer's license.

§ 3. The name and address of each of said persons shall be set out in the license of such dealer or salesman respectively.

§ 4. Applicants for a cemetery memorial dealer's license shall when said application is made to the clerk for a license as herein provided pay to said clerk a fee of twenty-five ($25.00) dollars and each applicant for a license as a cemetery memorial salesman shall, when his application is made to said clerk for a license as herein provided, pay to said clerk a fee of twenty ($20.00) dollars, and the clerk shall, if said application meets the requirements of this Act, issue to such person, firm or corporation, such license, for which he shall charge and receive from such applicant a fee of one ($1.00) dollar for each license so issued. The license herein mentioned shall only authorize the person or persons composing a firm or co-partnership, corporation or members thereof and salesmen as herein named to do and perform the acts herein named during the calendar year in which issued, provided it shall be lawful for the clerk to issue to any person who makes a proper application within one month before January 1st of any year for which a license under this Act for the entire succeeding year shall issue which license shall be authority to such person to so engage at any time during said succeeding year.

§ 5. The license tax herein imposed shall be reported by said clerk at the time and in the manner provided for the report of other license taxes collected by him as such clerk due the Commonwealth. Any licensed cemetery memorial dealer may upon any change in the membership of his business firm, co-partnership or corporation or of any of the officers thereof after the issual of such license, procure a transfer to such person as may have succeeded to the position, office or place held by him in such business firm, association, or corporation and any licensed cemetery memorial salesman may within such time procure a transfer thereof to the employment of another dealer or person licensed as such by making such application, or applications, in writing to said clerk, setting out said facts and changes and paying to said clerk a fee of one ($1.00) dollar and the change shall be indorsed on said license and the clerk shall keep a record of all licenses issued under the provisions of this Act as well as all such transfers, which records shall show the names and postoffice addresses of all persons licensed under said Act and all persons authorized to do business under said license.

§ 6. Any person who shall engage in any business or occupation herein named or solicit an order for any article, cemetery memorial, monument, marker, or sell same, or do any other act herein forbidden or who shall advertise or hold himself out as such dealer or salesman without first having procured a license so to do and paid the license tax herein provided, or who shall otherwise violate any of the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty ($20.00) dollars nor more than two hundred ($200.00) dollars, which may be recovered by warrant, information or by indictment.

§ 7. All licenses issued under this Act shall expire at the close of the calendar year for which issued.

§ 8. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of said Act and the application of the provisions of same to other persons or circumstances named shall also become inoperative, it being the purpose of the Act that same shall operate only as a whole.

By Mr. Wall:

H. B. 10. An Act to impose a license tax upon each and every radio receiving set owned, used and operated as such in the State of Kentucky, and providing for the manner of obtaining said license, and the amount of tax on each radio receiving set, and prescribing a penalty for the failure to obtain said license, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That there is hereby imposed a license tax of one dollar ($1.00) upon each and every radio receiving set owned, used and operated as such within the State of Kentucky, and providing that on and after June 30, 1936, it shall be unlawful for any person, persons, firm, partnership, corporation, or other associations to have in their possession, set up, or used as a receiving radio set to receive messages broadcast from broadcasting stations over said set, in any manner whatsoever without first obtaining a license for said radio receiving set, as is hereinafter provided.

On and after June 30, 1936, the County Court Clerk shall issue to any person applying therefor, a license to own, operate and use a radio receiving set. Said license shall be for a period of one year and shall expire on the 30th day of June each year, and any person owning, using, or operating a radio receiving set may renew the said license upon the expiration of same by paying to the said County Court Clerk the license fee herein set out. Said license shall be for a period of one year, and the Clerk of the Court shall, in addition to the license, charge and be paid for his services by the applicant the sum of fifteen cents (15c) for the issuing and recording of said license.

The County Court Clerk shall cause the applicant to pay, in addition to the fifteen cents (15c) for his services, the sum of one dollar ($1.00) which he shall account for and pay into the State Treasury as all other license taxes are now paid by the said County Court Clerks, and said sum so reported shall be covered into the State Treasury in the general fund.

Any person, persons, firm, corporation, or partnership, or other associations violating any provision of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five ($5.00) dollars, nor more than fifty ($50.00) dollars, and each day that said radio receiving set is operated without said license shall be deemed a separate offense.

Nothing herein shall be construed to apply to dealers who have in their possession radios for sale, either retail or wholesale, or to radios being transported in or across the State of Kentucky for the purpose of delivery, sale, etc. It is the intention of the Legislature that the license tax herein imposed shall be in lieu of all other license permits, or ad valorem tax upon the said radio receiving sets in this State, except the radios that are in stock of a legitimate dealer shall be taxed as other merchandise in any business in Kentucky.

It appearing to the Legislature that the State of Kentucky is now seriously in need of funds to operate the State government, and that revenue should be and must be immediately raised to meet the current expenses of the State, an emergency is hereby declared to exist, and this Act shall become effective immediately upon its passage and approval by the Governor.

All laws in conflict herewith are hereby expressly repealed.

By Mr. McGlothen.

H. B. 11. An Act concerning revenue and taxation and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The word "motor vehicle" as used in this Act shall include all vehicles which are propelled otherwise than by muscular power and which are used for transportation of persons or property over and upon the public highways of the Commonwealth, excepting, however, road rollers and such vehicles as travel exclusively on rails.

§ 2. There is hereby imposed on the use in this Commonwealth of every motor vehicle at the time it is first registered by its owner with the County Clerk for the purpose of procuring licenses and having license tags issued therefor, a tax equal to three per cent (3%) of the regular retail sales price of said motor vehicle, said retail sales price to be determined by the price for which said vehicle sells in the county in which license is applied for by regularly authorized dealers in said motor vehicles of a new car, and, if a used car, by the price or value given in the Automotive Reference Manual used by the Department of Revenue; provided, however, that this tax shall not apply or be collected if the owner thereof securing registration thereof shall have paid at the time he purchased said motor vehicle the sales tax on the sale of motor vehicles provided for by an Act of this Special Session of the General Assembly of the Commonwealth of Kentucky.

Said tax shall be collected by the County Clerk at the time he collects the registration fee for registering and licensing the said motor vehicle and shall be accounted for by him to the Department of Revenue as such registration and license fees are by law accounted for.

§ 3. The Department of Revenue is hereby authorized to promulgate rules and regulations for the purpose of making this Act effective and prepare and furnish to the various county clerks of this Commonwealth forms and blanks necessary for said purpose.

§ 4. The county clerk shall not register or issue any license tags to the owner of any motor vehicle affected by the provisions of this Act unless and until, in addition to the registration fees and license fees imposed by law, the owner shall pay the tax imposed by this Act.

§ 5. Whereas, The present State revenue does not meet the immediate needs for the maintenance of the State government, an emergency is declared to exist; and this Act shall become a law and be effective upon its approval by the Governor.

By Mr. McGary:

H. B. 12. An Act to define oleomargarine and to prescribe regulations to govern the manufacture, storage and sale thereof; to provide for the issuance of license to the manufacturers and venders thereof on payment of fees therefor, and for revocation of such license and violations of this

Act; to provide a privilege tax on sales of oleomargarine; to provide for the enforcement of the provisions of this act by the State Tax Commission and its agents; and declaring a violation of this act to be a misdemeanor and providing punishment therefor, and authorizing the State Tax Commission to make rules and regulations to carry into effect this act, and repealing all laws or parts of laws in conflict herewith and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the term person as used in this act shall include individuals, firms, co-partnerships, associations and corporations, both foreign and domestic.

§ 2. That for the purpose of this act certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as oleomargarine, namely: All substances heretofore known as oleomargarine, ole, oleomargarine oil, butterine, lardine, suine, and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef fat, suet, lard, lard oil, fish or fish oil, palm oil, vegetable oil, annetto and other coloring matter, intentinal fat and offal fat, if (1) made in imitation or semblance of butter, or (2) calculated or intended to be sold as butter or for butter, or (3) churned, emulsified, or mixed in cream, milk, water or other liquid, and containing moisture in excess of one per centum, or salt in any quantity whatsoever. This section shall not apply (1) to puff pastry, shortening not churned or emulsified in milk or cream and having a melting point of one hundred and eighteen degrees Fahrenheit or more, nor (2) to any of the following containing condiments and spices; salad dressings, mayonnaise dressing or manonnaise products nor (3) to pharmacutical preparations.

§ 3. That whoever, in person or by agent, sells, exposes for sale, or has in possession with intent to sell, oleomargarine as defined in Section 2 of this Act, shall have the word ''oleomargarine'' branded upon the top, sides and bottom of every tub, firkin, box or package containing any of said articles, in plain Gothic letters of not less than twenty point type. This brand must cover a space of not less than three and one-eighth inches in length on each panel, and shall be printed in a conspicuous color, which forms a strong contrast with the color of the package; and whoever, in person or by agent exposes or offers for sale any oleomargarine not in the original package, shall attach to said article, in a conspicuous place, a label bearing the word ''oleomargarine'' as provided for above and in case of retail sales of any said articles, substances or compound form bulk, tub or other container, the seller shall in person or by agent, attach to each package so sold and delivered therewith to the purchasers, a label or wrapper bearing in a conspicuous place upon the outside of the package the word ''oleomargarine'' printed in plain Gothic letters of not less than twenty point type.

§ 4. That no person, by himself or his agent or servant, shall manufacture, sell, offer for sale, expose for sale or have in his possession, with intent to sell, any article, compound or product made wholly or partly out of any fat, oil, or oleaginous substance or compound thereof, not produced directly and at the time of manufacture, from unadulterated milk or cream from the same which shall be in imitation of butter, produced from pure unadulterated milk, cream, or the combination of same. Provided that nothing in this Act shall be construed to prohibit the manufacture or sale of oleomargarine, as defined in Section 2 of this Act, in a separate and distinct form and in such a manner as prescribed in said Section.

§ 5. That every person desiring to manufacture, sell or offer for sale, or have in possession with intent to sell oleomargarine as defined in Section 2 of this Act, shall make application for a license to do so, which shall be in such form as shall be prescribed by the State Tax Commission or its agents, said application shall be furnished by the State Tax Commission in such form with such information thereon as may be deemed necessary or expedient for the fulfillment of the provisions of this Act, such application shall contain an accurate description of the place where the proposed business is intended to be carried on, the name, style of firm and such other information as may be prescribed to conduct the said business, such licenses shall be furnished to the firm, person, manufacturer, or retailer and the State Tax Commission shall issue such license properly signed and certified to, charging the following fees: Manufacturer's license, five dollars ($5.00); jobber's license, three dollars ($3.00); retail merchant's license, two dollars ($2.00) said license to be for the period of one year; after obtaining the license required by this section, the person obtaining the same shall, before beginning any business granted under the said license, hang up and display in a conspicuous place, on the walls of the room, store or factory in which oleomargarine if offered or exposed for sale, the license so obtained as aforesaid; and shall also procure from the State Tax Commission a sign, or signs, which in number, size and lettering shall be uniform throughout the State, clearly setting forth that he is engaged in the manufacture, or sale of oleomargarine.

§ 6. That any person operating a restaurant, lunch-counter, boarding house, or other place where food is served to the public using and serving oleomargarine, shall have cards placed in plain view on all four walls, opposite the table or tables or other places where guests are served, such signs as may be required by the State Tax Commission which shall have printed thereon "oleomargarine used here," and where menu cards are used in words "oleomargarine used here" shall appear in type in a conspicuous place thereon in as large letters as appear on the menu card, and provided further, that any person operating any above named public place serving food shall make application to the State Tax Commission as required in Section 5 of this Act, and shall pay the following license fee: Three Dollars ($3.00) for each hotel, Two Dollars ($2.00) for each restaurant, cafe, lunch-counter, pie wagon, club, or any other place where food is served to the public, and One Dollar ($1.00) for each boarding house, upon the issuance of such license, the license or agent of such place or places shall keep constantly posted the license as herein granted under the provisions of this Section.

§ 7. That the State Tax Commission shall have authority to revoke any license issued under this Act for the repeated non-observance by licensee of the provisions of this Act, or because licensee's place of business is in an unduly insanitary condition; provided, however, that five days' written notice, specifying the complaint may be given licensee to appear before the State Tax Commission and show cause why such license should not be revoked. If after the revocation of such license the licensee should comply with the requirements of the law and make manifest in writing their intentions to observe them in the future, the State Tax Commission may issue to them another license upon their paying the required fee therefor.

§ 8. That no person shall use in any way in connection or association with the sale, or exposure for sale, or advertisements of oleomargarine as defined in Section 2 of this Act, the words butterine, creamery, or dairy, or the representation of a cow of any breed of dairy cattle, or any combination of such words and representation, or any other words or symbols, or combinations thereof, commonly used by the dairy industry, except only the labeling requirements described in Section 3 of this Act; no person shall efface, erase, cancel or remove any mark, statement, label or stamp required by this Act with intent to mislead, deceive or with intent to violate any of the provisions of this Act.

§ 8a. That there is hereby levied a tax to the amount of five cents per pound on all oleomargarine sold in the State as defined in Section 2 of this Act, such tax to be in the form of a stamp in such denominations as will best carry out the provisions of this section, said Stamps shall be properly safeguarded as to their manufacture, preservation and distribution, and shall be in custody and charge of the State Tax Commission and provided further, that the affixing and cancellation of said stamps shall be directed by the State Tax Commission, "This tax to be in addition to the license fees defined in Sections 5 and 6 of this bill and license shall be dated January 1 of each year and expire December 31 of the same year."

§ 9. That no state, county, municipal or other institution supported in whole or in part by public funds shall furnish to its inmates, patrons, or employees, or use in the preparation of their food any oleomargarine or similar substitutes for butter as defined in Section 2 of this Act.

§ 10. All revenues and fees collected by the State Tax Commission under the provisions of this Act, shall be paid into the State Treasury to the credit of the general fund.

§ 11. The State Tax Commission is hereby authorized to appoint the necessary agents or deputies for the purpose of carrying out the provisions of this Act, and said agents, deputies, and employees, are hereby authorized and empowered to enter, during business hours, for the purpose of carrying out the provisions of this Act, all places of business that may come under the provisions of this Act.

§ 12. That to facilitate the inspection of oleomargarine as prescribed in this Act, all manufacturers, jobbers, and wholesalers making shipments into or within the State are hereby required to forward to the State Tax Commission on forms to be furnished by the said Commission and on the date of shipment, notification of the amount of such oleomargarine together with the car number and/or transportation company, the name and address of the consignee, together with the brand or brands making up such shipment.

§ 13. The State Tax Commission is hereby empowered to promulgate such rules and regulations as are consistent with the provisions of this Act, provided, however, that when requested by any person interested, the State Tax Commission shall furnish copies of all proposed rules and regulations at least ten days before such rules and regulations become effective so that the person may be heard thereon.

§ 14. Any person violating any of the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof, for the first offense shall be fined not less than Ten Dollars ($10.00), nor more than fifty dollars ($50.00), and for such subsequent offense shall be fined not less than twenty-five dollars ($25.00), or be imprisoned in the county jail for not more than twelve months, nor less than sixty days, or shall suffer both fine and imprisonment.

§ 15. That if any section, subsection, clause, provision, or portion of this Act shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, subsection, clause, or provision of this Act.

§ 16. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed.

§ 17. Whereas, the present state revenue does not meet the immediate needs for the maintenance and development of the state government and its agencies, and the credit of the State is threatened with impairment, an emergency is declared to exist, and this Act shall become a law and become effective upon its passage and approval by the Governor.

§ 18. The collection of the tax levied by this Act may not be enjoined by any court, but the taxpayer shall pay the same as when it becomes due, and may sue the Auditor of Public Accounts for a refund of such tax and any judgment so obtained shall be a first claim against the general revenues of the Commonwealth of Kentucky or against the fund into which such taxes are paid.

Ordered that said bills be printed and referred to the Committee on Revenue and Taxation No. 1.

Mr. Munford moved that the House do now adjourn to meet again on tomorrow at twelve o'clock, Meridian.

Mr. Howard moved that the House do now adjourn to meet again at one o'clock P. M. on tomorrow.

The motion as made by Mr. Howard was agreed to.

And then the House adjourned.

THURSDAY, APRIL 2, 1936.

The House was opened with prayer by the Reverend Olaf Anderson of the Presbyterian Church, South, of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Harry Davis
Sam Dever
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan

James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. H. Miller
John B. Mollett
W. E. Mull
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
John Kirtley, Spkr.

Mr. Shehan moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. McGary moved that the privilege of the floor be extended to Mr. Marshall Bradley and Judge Rapilee.

Said motion was agreed to.

Mr. Hunnicut moved that the privilege of the floor be extended to Mr. Harry Gaynor.

Said motion was agreed to.

Mr. Hulette moved that the privilege of the floor be extended to Mr. S. D. Michell.

Said motion was agreed to.

Dr. Byers moved that the privilege of the floor be extended to Professor Ozna Shultz of Ohio County.

Said motion was agreed to.

Upon a call of the Counties and Legislative Districts, the following bills were introduced, viz.:

By Mr. Mollette:

H. B. 13. An Act relating to Revenue and Taxation and providing for the granting and extension of teachers' certificates in the Commonwealth of Kentucky; the length of time and by whom granted and extended, providing for the payment of fee in connection with the granting and extension of same.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That certificates issued to any teacher, which certificate expires in the year 1936, shall be extended two years upon its expiration and such extension shall be made or issued by the department of certification of the State Department of Education upon application of the teacher, together with a signed statement from the superintendent of the county or city in which said teacher making such application taught certifying that said teacher had taught either in the school years 1932-1933 or the school years 1933-1934 or the school years 1934-1935 or the school years 1935-1936; provided, however, such application shall be accompanied by a fee of Five Dollars ($5.00) to be collected by the Department of Education and delivered to the State Treasurer to be credited to the General Expenditure Fund, Any person who has taught or been in the school work for twenty years or more prior to the effective date of this act shall be entitled to a certificate to teach in any of the elementary schools of this state for a period of three years, and if any person to whom such certificate is issued has taught at least two (2) years during the life of said certificate, he or she will be entitled to a removal thereof for three (3) years and for each three (3) years thereafter provided each application for the certificate or renewal thereof be accompanied with a fee of Five Dollars ($5.00) to be collected by the Board of Education and delivered to the State Treasurer to be credited to the General Expenditure Fund.

Any person who has taught twenty (20) consecutive years prior to the effective date of this act shall have a certificate issued for life provided such application shall be accompanied by a fee of Ten Dollars ($10.00) to be collected by the Department of Education and delivered to the State Treasurer to be credited to the General Expenditure Fund.

All laws or parts of laws in conflict herewith are hereby repealed.

By Mr. Hammons:

H. B. 14. An Act relating to Revenue and Taxation, providing for a license tax upon the gross premiums of insurance companies not organized under the laws of the State of Kentucky, and repealing Sections 4229, 4226, 4230, 4232, 4230a, 4232, 4233, 4234, 4235, 4236 and 4237 of the Kentucky Statutes.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The term "Insurance Company" as used in this Act shall be held to mean and include any association, individual, company, corporation, partnership, or joint Company engaged in, or carrying on in any manner, the business of insurance, or of entering into contracts agreeing to indemnify against loss of any kind, and collecting premiums therefor, except that the provisions of this act shall not apply to a secret or fraternal society, lodges, or councils, which are under the supervision of a grand or supreme body, and secure members through the lodge system exclusively, and pay no commissions nor employ any agents, except in the organization of and supervision of the work of local subordinate lodges or councils nor to companies, societies or associations, organized under the authority and patronage of any church or religious denomination for the exclusive purpose of insuring the property of churches or religious denominations and the personal preperty of the pastors and ministers thereof against loss or damage by fire, lightning or storm.

§ 2. Every Insurance Company not organized under the laws of this State and doing business in this State, shall in the month of January of each year file with the Commissioner of Insurance of this State, a report, verified by the oath of some principal officer, or general agent or manager of the State, showing the gross amount of premiums received by it from policies covering risks within this State during the preceding calendar year, without deducting for commissions, the return premiums, considerations paid for re-insurance, or any deductions whatever. It shall also set forth in separate items, returned premiums paid for cancellations, and considerations received from other companies for re-insurances in this State during the year. At the time of filing such report every such insurance company shall pay into the State Treasury the sum of four ($4.00) dollars, on every one hundred dollars ($100.00) of such gross premium receipts, less the sums actually paid for returned premiums and the amounts received for re-insurance of risks in this State as shown by such report, and any such insurance company failing or refusing for more than thirty (30) days to render an accurate account of its premiums, receipts as above provided and pay the required tax thereon, shall forfeit one hundred ($100.00) dollars for each additional day such report and payment shall be delayed, and it shall be the duty of the Commissioner of Insurance to revoke all authority of any such defaulting company to do business within this State, and the Commissioner shall have full authority by himself or through his representative to make examinations of the books and records of such company or its agents for the purpose of verifying the correctness of such reports. Provided, however, that any company subject to the tax herein provided may be required to pay an occupational tax in any city or municipal corporation where such tax levied by the City or Corporation is by the insurance company passed on to the policyholders. And all Companies paying the State tax herein provided for shall not be subject to any other or similar tax by any city or municipal corporation of this State.

§ 3. Any insurance company that has been authorized to transact business in this State shall continue to make the reports required by this Act as long as it collects any premiums upon risks in this State, and shall pay taxes thereon even after it has voluntarily ceased to write insurance in this State or has withdrawn therefrom, or its license has been suspended or revoked by the Commissioner of Insurance, and failure to report or pay the tax, shall subject it to penalties provided herein.

§ 4. Any Insurance Company, as contemplated in this Act, failing or refusing to make the report as required herein shall be guilty of a misdemeanor and on conviction shall be fined not less than two hundred and fifty ($250.00) dollars, or more than two thousand and five hundred ($2,500.00) dollars for each offense. If any officer or agent of any such company shall make any false statements in any report required herein he shall be guilty of false swearing and shall be punished accordingly.

§ 5. The Franklin Circuit Court shall have jurisdiction of all prosecutions under this act.

§ 6. The Auditor of Public Accounts may sue for and recover for in the name of the Commonwealth of Kentucky, all taxes and penalties due the State under this Act, and the Franklin Circuit Court shall have jurisdiction in such actions.

§ 7. Sections 4226, 4229, 4230, 4230a, 4232, 4233, 4234, 4335, 4236 and 4237 of Kentucky Statutes, and all other laws or parts of laws in conflict herewith are hereby repealed.

By Mr. W. T. Baker:

H. B. 15. An Act requiring fur dealers doing business in the State of Kentucky, either residents or non-residents of the State of Kentucky, to obtain a license and pay a tax for same before doing any of the said business pertaining to buying and selling of furs, fixing the amount of said license tax and providing for the manner in which said license may be issued, defining "fur dealers," prescribing penalties for the violation of the provisions hereof and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The words "fur dealers" as used herein shall mean any person, persons, firm, co-partnership, corporation or association who shall buy or sell or trade in furs, hides or pelts of any domestic or wild animal while said fur, hides of pelts have not been yet manufactured into a finished product, and shall mean any and all persons, firms, co-partnerships, corporations or associations engaged in any of such business whether it be retail or wholesale and the said term "fur dealer" shall include any person who shall act as agent for any other person, persons, firm, co-partnership, corporation or association in buying, selling or trading in any of the commodities known as furs, hides, or pelts.

§ 2. That on and after passage and approval of this Act every fur dealer engaged in the business of buying, selling or trading, either retail or wholesale, any furs, hides or pelts, either green or dry, for the purpose of being resold before same are manufactured into any of the finished products for which said furs or pelts are used, shall apply to the Circuit Court Clerk of the county of his, her or its residence for a license to engage in such business. If the applicant shall be a non-resident of the State of Kentucky, he, she or it may apply to any Circuit Court Clerk within the Commonwealth of Kentucky for said license.

§ 3. The Circuit Court Clerk, on the filing of an application by any of the parties herein mentioned to engage in the business as defined "fur dealers" shall issue to them a license to be furnished by the State Tax Commission of Kentucky permitting the said applicant to engage in such business when such applicant has paid to the said Circuit Court Clerk the amount of fee as a license tax as follows:

If the applicant be a resident of the county in which said application is made and shall state in his application that he intends to do business as a fur dealer in the county of his residence only, he shall be required to pay to the clerk aforesaid the sum of twenty-five ($25.00) dollars and the Clerk will in addition thereto cause the applicant to pay the sum of one ($1.00) dollar for the issuing of said license which shall be retained by said Clerk as his fee for the issuing of same. If the applicant shall state in his application that he is a resident of the State of Kentucky and desires to do business in more than one county in the State, the Clerk shall require the said applicant to pay the sum of fifty ($50.00) dollars and in addition thereto the sum of one ($1.00) dollar for the issuing of said license which shall be retained by said Clerk as his fee for the issuing of same.

If the applicant shall state in his application that he is a non-resident of the State of Kentucky, he shall be required to pay the sum of seventy-five ($75.00) dollars and in addition thereto the sum of one ($1.00) dollar for the issuing of said license which shall be retained by said Clerk as his fee for the issuing of same.

§ 4. The license so issued under the provisions of this Act, if it be to a resident of the State of Kentucky and shall be for only one county, the said person holding said license shall not be permitted to buy, sell, trade or deliver any furs, hides or pelts as defined in this Act in any other county other than the county of his residence. If the license so issued shall be to a resident or a non-resident of the State of Kentucky for more than one county, same shall be for each and every county in the State of Kentucky and no other license or the payment of any other license tax for said occupation as fur dealer shall be required in any other county of the Commonwealth of Kentucky.

§ 5. No person shall act as agent in the buying, selling or trading in any of the furs, hides or pelts as mentioned herein in the State of Kentucky unless said agent shall have first obtained a license permitting him to act as a fur dealer, and said license shall not be loaned, transferred or used by any other person, except the person to whom it was issued, and each and every agent, salesman or employee of any firm, corporation or association who actually does the buying, selling and trading for said firm, corporation or association, shall be required to obtain an additional license as required herein other than the license issued to the said firm, corporation or association.

The Circuit Court Clerk shall issue the license for one year or fractional part thereof and all licenses so issued hereunder, shall expire on the 30th day of June following the date of their issual and same may be renewed yearly thereafter.

§ 6. The Circuit Court Clerk shall make monthly reports to the Auditor of Public Accounts of all licenses sold and tax collected under the provisions of this Act and shall remit to the Auditor all moneys collected by him for the license tax as provided for herein, and same shall be covered into the State Treasury and credited to the general fund of the State of Kentucky, provided, however, that the Circuit Court Clerks who shall have issued said licenses shall retain the one ($1.00) dollar for each license issued as his fee for issuing same.

§ 7. Any person, persons, firm, corporation or partnership or other association who shall violate any provision of this Act or who shall in any way engage in the business of fur buying, selling or trading or acting as fur dealer as herein defined, without first obtaining a license as provided for herein, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than fifty ($50.00) dollars nor more than one hundred ($100.00) dollars. Each day or fractional part thereof that any such person, persons, firm, corporation, copartnership or association shall so engage in said business without a license shall be deemed a separate offense. It is the legislative intent of the General Assembly at this special session to raise revenue for the purpose of paying the State's indebtedness and to provide for the payment of the current operating expenses of the State government and whereas, the State government is now in serious need of revenue to meet its obligations in the operation of the State government, an emergency is hereby declared to exist and that Act shall become effective immediately upon passage and approval by the Governor.

All laws in conflict herewith are hereby expressly repealed.

By Mr. Tapp:

H. B. 16. An Act to repeal, amend, and re-enact chapter one hundred and eleven of the Acts of the General Assembly of 1924, as amended by chapter one hundred and seventy-six of the Act of the General Assembly of 1926, now codified as Carroll's Kentucky Statutes, 1930 Edition, sections 4281a-1 to 4281a-11, inclusive.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Chapter one hundred and eleven of the Acts of the General Assembly of 1924, as amended by chapter one hundred and and seventy-six of the Acts of the General Assembly of 1926, now codified as Carroll's Kentucky Statutes, 1930 Edition, sections 4281a-1 to 4281a-11, inclusive, is hereby repealed, amended, and re-enacted, so that as re-enacted it shall read as follows:

§ 1. (1) All property within the jurisdiction of the State, real or personal, and any interest therein, belonging to inhabitants of the State, and all tangible personal property wherever situated belonging to inhabitants of the State not having acquired a situs for purposes of taxation outside of the State, and all intangible property of whatsoever nature belonging to persons domiciled in the State, and all intangible property of whatsoever nature having acquired a business situs in this State and belonging to non-residents hereof, all real property or interest therein within the State and all tangible personal property having acquired a situs in Kentucky and not taxable elsewhere belonging to persons who are not inhabitants of the State, which shall pass by will, or by the laws regulating intestate succession, or by deed, grant, bargain, sale or gift, made in contemplation of death, or made or intended to take effect in possession or enjoyment at or after the death of the grantor or donor, absolutely or in trust, to any person or persons or to any body politic or corporate, in trust or otherwise, or by reason whereof any person or body politic or corporate shall become beneficially entitled in possession or expectancy, to any property, or to the income thereof, shall be and is subject to a tax for the uses of the Commonwealth specifically prescribed in this Act, upon the fair cash value as of the date of the death of the grantor or donor of such property in excess of the exemptions hereinafter granted and at the rates hereinafter prescribed.

Such tax shall be imposed when any such person or corporation becomes beneficially entitled, in possession or expectancy, to any property or the income thereof, by any such transfer.

(2) Every transfer made within three years prior to the death of the grantor, vendor, or donor of a material part of his estate, or in the nature of a final disposition or distribution thereof, and without an adequate valuable consideration, shall be construed prima facie to have been made in contemplation of death within the meaning of this section. And in the event a transfer was made more than three years prior to the death of the decedent it shall be a question of fact to be determined by the proper tribunal whether such transfer was made in contemplation of death.

(3) Whenever any person shall exercise a power of appointment derived from any disposition of property made, whether before or after the passage of this Act, such appointment when made shall be deemed a transfer taxable under the provisions of this Act in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and has been bequeathed or devised by such donee by will; and whenever any person possessing such a power of appointment so derived shall omit or fail to exercise the same in whole or in part, within the time provided therefor, a transfer taxable under the provisions of this Act shall be deemed to take place to the person or persons receiving such property as a result of such omission or failure to the same extent that such property would have been subject to taxation if it had passed under the will

of the donee of such power. Provided that in the case of such power of appointment, the transfer shall be deemed to take place, for the purpose of taxation, at the time of the death of the donor and the assessment be made at that time against the life interest of the donee and the remainder against the corpus.

(4) Whenever any property, real or personal, is held in joint names of two or more persons, or as tenants by the entirety, or is deposited in banks or other institutions or depositories in the joint names of two or more persons and payable to either or the survivor, upon the death of one of such persons the right of the surviving tenant by the entirety, joint tenant or joint tenants, to the immediate ownership or possession and enjoyment of such property shall be deemed a transfer of one-half or other proper fraction thereof taxable under the provisions of this Act in the same manner as though this part of the property to which such transfer relates belonged to the tenants by the entirety, joint tenants or joint depositors as tenants in common, and had been bequeathed or devised to the surviving tenant by the entirety, joint tenant or joint tenants, by such deceased tenants by the entirety, joint tenant or joint depositor, by will.

(5) In the event it shall appear, either from the will of the decedent or from extrinsic evidence that an obligation of a contractual nature exists in favor of any person, payable at or after death of the decedent, said sum so payable shall be treated for the purposes of this Act as a taxable transfer, unless it shall affirmatively appear by competent evidence that a consideration substantially equivalent in value to the amount so due under said contract was paid or furnished by or for the other party thereto during the life of the decedent. It is further provided that the proceeds payable under any life insurance policy on the death of the assured to a designated individual other than the assured or his estate shall be

taxable as hereinafter provided in the case of legacies and distributable shares.

(6) The terms of this statute shall apply to any property or interest therein, of which the decedent has made a transfer by trust or otherwise, in contemplation of or intended to take effect in possession or enjoyment at or after death, including a transfer under which the transferor has retained for his life or any period not ending before his death, (a) the possession or enjoyment of, or the income from the property; or (b) the power to designate the persons who shall possess the property or the income therefrom except in the case of a bona fide sale for an adequate and full consideration in money or money's worth; or (c) it shall further apply to any property conveyed in trust over which the settlor has a power of revocation exercisable by will.

§ 2. (1) All transfers to educational, religious or other institutions, societies, or associations, whose sole object and purpose are to carry on charitable, educational, or religious work within the State, all transfers for or upon trust for any charitable purpose in this State and all transfers to cities and towns or public institutions in this State for public purposes, shall be exempt from the tax imposed by this Act. But no such corporation or association shall be entitled to such exemption if any officer, member, shareholder, or employee thereof shall receive or may be lawfully entitled to receive any pecuniary profit from the operations thereof, except reasonable compensation for services in effecting one or more of such purposes or as proper beneficiaries of its strictly charitable purpose; or if the organization thereof, for any such avowed purpose, be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation or association, or for any of its members or employees, or if it be not in good faith organized or conducted exclusively for one or more of such purposes.

(2) The tax upon transfers of property as above defined shall be at the following rates:

Class A. In case the transfer shall be to or for the benefit of a surviving spouse, child by blood, step-child, adopted child (if adoption shall have occurred during infancy), grandchild, if the issue of a deceased child, the tax shall be:

On its value not exceeding $10,000, 2%.

On its value exceeding $10,000, but not exceeding $20,000, 3%.

On its value exceeding $20,000, but not exceeding $30,000, 4%

On its value exceeding $30,000, but not exceeding $45,000, 5%.

On its value exceeding $45,000, but not exceeding $60,000, 6%.

On its value exceeding $60,000, but not exceeding $100,000, 7%.

On its value exceeding $100,000, but not exceeding $200,000, 8%.

On its value exceeding $200,000, but not exceeding $400,000, 9%.

On its value exceeding $400,000, but not exceeding $600,000, 10%.

On its value exceeding $600,000, but not exceeding $800,000, 11%.

On its value exceeding $800,000, but not exceeding $1,000,000, 12%.

On its value exceeding $1,000,000, but not exceeding $2,000,000, 14%.

On its value exceeding $2,000,000, 16%.

Class B. In the case the transfer shall be to, or for the benefit of a parent, brother, sister, brother or sister of the half blood, daughter-in-law, son-in-law, grandchild being the issue of a living child, the tax shall be:

On its value not exceeding $10,000, 4%.

On its value exceeding $10,000, but not exceeding $20,000, 5%.

On its value exceeding $20,000, but not exceeding $30,000, 6%.

On its value exceeding $30,000, but not exceeding $45,000, 8%.

On its value exceeding $45,000, but not exceeding $60,000, 10%.

On its value exceeding $60,000, but not exceeding $100,000, 12%.

On its value exceeding $100,000, but not exceeding $200,000, 14%.

On its value exceeding $200,000, 16%.

Class C. In case the transfer shall be to, or for the benefit of, any person or corporation not exempted by Section 2, subsection (1), or included in either of the foregoing classes, the tax shall be:

On its value not exceeding $10,000, 6%.

On its value exceeding $10,000, but not exceeding $20,000, 8%

On its value exceeding $20,000, but not exceeding $30,000, 10%.

On its value exceeding $30,000, but not exceeding $45,000, 12%.

On its value exceeding $45,000, but not exceeding $60,000, 14%.

On its value exceeding $60,000, 16%.

(3) There shall be free from any tax hereunder the following inheritable interests:

Wife or infant son or daughter, $10,000; provided, that if the transfer to a wife exceeds $30,000 the exemption shall be decreased by subtracting from $10,000 the amount by which the distributable share exceeds $30,000, so that a distributable share greater than $40,000 shall receive no exemption.

All other persons of Class A, $5,000 provided that if the transfer to any other person of Class A exceeds $15,000 the exemption shall be decreased by subtracting from $5,000 the amount by which the distributive share exceeds $15,000 so that a distributable share greater than $20,000 shall receive no exemption.

If the decedent be not a resident of the State of Kentucky the exemption shall be the same proportion of the allowable exemption in the case of residents that the property taxable by Kentucky bears to the whole property transferred by the decedent.

In calculating the tax upon each bequest the above exemptions are in each case to be taken out of the first $10,000 inherited and the tax on the remainder, if any, of the first $10,000 shall be computed at the rates provided above.

(4) Administrators, executors, and trustees and all beneficiaries of such taxable transfers shall be liable for such taxes, with interest, as hereinafter provided, until the same have been paid. Provided, however, that in no case shall such administrator, executor, or trustee be liable for a greater sum than actually passes through his administration.

(5) In calculating the value of the distributive shares the following deductions and no others shall be allowed:

(a) Debts of the decedent, except debts secured by property not subject to the tax jurisdiction of Kentucky;

(b) Taxes accrued and unpaid, except those on property not subject to the tax jurisdiction of Kentucky;

(c) Death duties paid to foreign countries;

(d) Federal estate taxes—in the proportion which the property assessed in this State bears to the total taxable property of the estate. All assessments used in calculation to be those agreed to by the Department of Revenue;

(e) Drainage, street or other special assessments due and unpaid which are a lien on said property;

(f) Funeral and burial expenses not exceeding $600.00

and amount actually expended for monuments not exceeding $300.00;

(g) Commission of executors and administrators actually allowed and paid;

(h) Cost of administration including reasonable attorney's fees;

(i) A deduction shall be allowed to persons of Class A of sub-section (2), of Section 2, for all property transferred by decedent of Class A of sub-section (2), of Section 2, to any person of that class; provided, the same property had been transferred within two years to such decedent and a tax paid thereon in this State. This deduction shall not exceed the appraised value on which such tax was paid; provided, however, such property previously taxed can be identified as having been received by the decedent from such prior decedent by gift, bequest, devise, or inheritance, or can be identified as having been acquired in exchange for property so received. Provided, further, that this deduction shall not apply in favor of one who becomes a member of Class A by marriage contracted within said period of two years.

(6) In the case of estates in expectancy which are contingent or defeasible a tax shall be levied at the highest rate which on the happening of any of the contingencies or conditions named in the will would be possible under the provisions of this Act. Moneys so collected shall be distributed as are other inheritance tax funds.

If the property so taxed shall ultimately vest in possession in persons taxable at a lower rate or in a person or a corporation exempt from taxation by this Act upon application by such beneficiary to the Department of Revenue for refund of any excess tax, which application shall be certified by the judge or acting judge of the probate court of the county in which the probate proceedings were had, the Department of Revenue, after investigation, shall certify to the Auditor of Public Accounts the amount of such refund. The said Auditor shall refund such excess in the same manner as provided in Section 6, sub-section (4).

(7) Where an estate or interest can be divested by the act or omission of the legatee or devisee it shall be taxed as if there were no possibility of divesting.

(8) The value of every future, or contingent or limited estate, income or interest, for the purpose of this Act shall be determined by the rule, methods and standards of mortality and of value prescribed by the appropriate United States Life mortality tables for ascertaining the value of life estates, annuities and remainder interests, save that the rate of interest to be assessed in computing the present value of all future interest and contingencies shall be four per centum (4%) per annum.

(9) The division of insurance, without a fee, on the application of the Department of Revenue, shall determine the value of any future or contingent estate, income or interest therein, limited, contingent, dependent or determinable upon the life or lives of persons in being upon the facts contained in any such application or other facts to him submitted by said Department and certify the same in duplicate to said Department, and his certificate thereof shall be competent evidence that the method of computation therein is correct. When an annuity or a life estate is terminated by the death of the annuitant or life tenant, and the tax upon such interest has not been fixed the determined, the value of said interest for the purpose of taxation under this Act shall be that amount of the annuity or income actually paid or payable to the annuitant or life tenant during the period for which such annuitant or life tenant was entitled to annuity or was in possession of the life estate. The tax on such annuities shall be payable out of the corpus of the estate unless otherwise provided under the terms of the will.

(10) If a testator bequeaths or devises property to one or more executors or trustees in lieu of their commissions or

allowances, or makes them his legatees to an amount exceeding the commissions or allowances prescribed by law for an executor or trustee, the excess in value of the property so bequeathed or devised above the amount of commissions or allowances prescribed by law in similar cases shall be taxable under this Act.

§ 3. (1) In addition to the inheritance tax hereinbefore imposed, an estate tax is hereby levied on all estates equal to the amount by which the credits for state death taxes allowable under the Federal estate tax law exceeds the tax levied under Sections 1 and 2 of this Act. Said tax shall be payable at the same time and in the same manner as the inheritance taxes levied by this Act.

In the case of resident decedents and non-resident decedents over part of whose estates Kentucky has tax jurisdiction the estate tax shall be computed as follows: (a) The ratio which that part of the estate over which Kentucky has jurisdiction for estate tax purposes bears to the total estate wherever located shall be ascertained; (b) the total maximum offset for state succession taxes allowed under the provisions of the Federal estate tax law shall be multiplied by the ascertained ratio to determine the offset allocable to this State; (c) the estate tax levied by this section shall equal the amount, if any, by which the offset allocable to this State shall exceed the inheritance taxes levied under Sections 1 and 2 of this Act.

(2) The intent and purpose of this section is to take full advantage of the credit allowed for state succession duties by the Federal estate tax law by imposing an additional tax, and the same shall be liberally construed to effect this purpose.

(3) All administrative provisions of this Act to the extent that they are applicable shall be available for the enforcement of this section.

(4) No suit shall be maintained in any court to restrain

or delay the collection or payment of the tax levied by this section. The aggrieved taxpayer shall pay under protest the tax as and when required and may at any time within two years from the date of such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in an action at law in any court, State or Federal, otherwise having jurisdiction of the parties and subject matter, for the recovery of the tax paid with legal interest thereon from the date of payment. If it is finally determined that said tax or any part thereof was wrongfully collected, for any reason, it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected together with legal interest thereon. The Treasurer shall pay the same at once out of the general expenditure fund in preference to other warrants or claims against the Commonwealth. A separate suit need not be filed for each individual payment made by any taxpayer, but a recovery may be had in one suit for as many payments as may have been made.

All shares of stock in corporations organized under the laws of this state belonging to persons whose domicile is in a country foreign to the United States or its possessions shall, on the death of the owner, be subject to a tax of five per centum (5%) of its actual value upon its transfer, payment, or delivery to the executor, administrator, or trustee of the estate of said deceased.

§ 5. (1) The Department of Revenue shall have full supervision of the enforcement and collection of all taxes due under the provisions of this Act, including the power to institute suit in this State or other states, and shall make all rules and regulations necessary for the administration thereof. It may employ such attorneys and other persons as may be necessary for the carrying out of its full intent and purpose. The Department of Revenue shall direct its representatives to make an investigation in any case where it deems fuller information necessary, and may cause administrators, executors, or beneficiaries to file all statements required by this Act with the clerks of the proper courts and with the Department; examine all statements filed by such administrators, executors, and beneficiaries, and require such administrators, executors, or beneficiaries to furnish any additional information that may be deemed necessary to determine the amount of tax that should be paid by such estate. Such executor or administrator shall in every case, when he files his inventory in the county court, file a duplicate thereof with the Department of Revenue. The county court upon the request of the personal representative or any interested party, shall appoint some competent person as appraiser, whose duty it shall be to give notice to all persons having an interest therein and to such persons as the court may order direct and shall appraise the property belonging to said estate, and his report shall be filed with the county court and a copy thereof with the State Tax Commission. The said appraiser appointed by the county court shall be paid for his services out of the funds of the estate on the certification of the court and the amount to be fixed by the judge of the county court, and the total compensation in no event to exceed one-tenth of one per cent of the total appraised value of the estate for inheritance tax purposes; provided, there shall be a minimum allowance of Five Dollars ($5.00), together with his actual and necessary traveling expenses. After investigation, the Department of Revenue shall fix the value of the estate for inheritance taxes and advise the representative of the estate of such valuation. The administrator, executor, or any interested party, if not satisfied with such appraisement may appeal within thirty days from the decision of the Department of Revenue to the Circuit Court of Franklin County and appeals may be taken by the personal representative of the estate or any interested party or the Department of Revenue from the judgment of the Circuit Court of Franklin County to the Court of Appeals in the time and manner as now provided by law in other civil actions.

(2) The clerk of the county court on the first of each month, without fee, shall send to the Department of Revenue on forms furnished by said Department a list of wills probated and administrators appointed together with the name of the decedent and the inventory value of the estate when such inventory is filed, and on request from the Department of Revenue shall furnish such other information as may be of record in his office concerning any such estate. But for any copies of wills or inventories the clerk shall receive his regluar fee.

(3) If real estate of a decedent be passed to another person so as to become subject to said tax, his executor, administrator or trustee shall inform the Department of Revenue thereof within six months after his appointment, or if the fact is not known to him within that time then within one month after the fact becomes known to him.

(4) All taxes imposed by this Act shall be assessed by the Department of Revenue on the full and fair cash value of the property transferred at the rates hereinbefore set out, to be paid to the said Department and immediately covered into the Treasury to the credit of the general expenditure fund. All executors, administrators, trustees, and beneficiaries shall be personally liable for any and all such taxes until the same are paid. Notice of the amount of said taxes shall be mailed to the executor, administrator, or trustee or other person liable therefor by said Department; and, upon request, to any other person by whom said taxes are payable. But failure to receive said notice shall not excuse the non-payment of or invalidate said taxes. Said taxes shall be and remain a lien upon the property transferred and upon all property acquired by the executor, administrator, or trustee, until the said taxes are paid or a bond given as herein provided; but said lien shall not affect any tangible or intangible personal property

after it has passed to a bona fide purchaser for value; provided, however, that nothing herein contained shall give the owner of any securities the right to have the same transferred to him by the corporation, association, company, or trust issuing the same, until a permit required by this Act shall have been filed as herein provided. The lien charged as aforesaid upon any real estate may be discharged by the payment of all taxes due and to become due. The heir, devisee, or other donee shall be personally liable for the tax on such real estate, as well as the executor, administrator, or trustee; and if the executor, administrator, or trustee pays such a tax, he shall, unless the same is made an expense of administration by the will or other instrument, have the right to recover such tax or any other tax from the heir, devisee, or other donee of such real estate.

(5) The lien herein retained to secure transfer taxes may be enforced as other liens upon similar properties are enforced.

(6) The Department of Revenue shall keep a record of all returns made by appraisers, the cash value of annuities, life estates and term of years, and the amount of all taxes assessed by them; and, in addition, the said Commission may enter or record all other information and data which they may deem desirable or proper. All returns made by appraisers and all data otherwise gathered by the Department of Revenue shall be considered as privileged communications and the same shall not be exhibited for inspection to any person or persons other than the executor or the administrator or a beneficiary entitled under the terms of the last will and testament or the intestate laws to share in the estate, or the duly authorized attorney of said executor, administrator or beneficiary. Nothing in this section shall be construed as prohibiting the use of such returns made by appraisers and all data otherwise gathered by the Department in legal proceedings involving the assessments, collection, or abatement

of taxes provided for by the various tax statutes prevailing in this State.

§ 6. Actions may be brought against the State by any interested person for the purpose of quieting the title to any property against the lien or claim of lien of any tax or taxes under this Act, or for the purpose of having it determined that any property is not subject to any lien for taxes nor chargeable with any tax under this Act. No such action shall be maintained where any proceedings are pending in any court in this State wherein the taxibility of such transfer and the liability therefor and the amount thereof may be determined. All parties interested in said transfer and in the taxability thereof shall be made parties thereto and any interested person who refuses to join as plaintiff therein may be made a defendant. Summons for the State in said action shall be served upon the Commissioner of Revenue. Actions to quiet title shall be brought in a court of competent jurisdiction.

§ 7. (1) The Department of Revenue shall prepare and furnish, upon applications, blank forms covering such information as may be necessary to determine the amount of inheritance tax due the State on the transfer of all property subject to tax; it shall determine the value of such property and have full authority to do all things necessary to secure full and final settlement of all such inheritance taxes due, or to become due, to the State Treasury.

(2) All taxes imposed by this Act, unless otherwise herein provided for, shall be due and payable at the death of the decedent, and if the same are paid within nine months a discount of five per centum (5%) shall be allowed, and if the same are paid within eighteen months no interest shall be charged and collected thereon, but if not so paid within eighteen months, a penalty at the rate of ten per centum (10%) per annum shall be charged and collected from the time said taxes accrued. And in all cases where the executors, adminstrators, or trustees do not pay such taxes within twelve

months from the death of the decedent they shall be required to give bond in the form and to the effect prescribed by the Department of Revenue for the payment of said taxes, together with interest.

(3) The penalty of ten per centum (10%) per annum imposed for the non-payment of said tax shall not be charged in cases where, by reason of claims made upon the estate, necessary litigation, or other unavoidable cause of delay, the estate of any decedent, or a part thereof, cannot be settled at the end of twelve months from the death of the decedent; and in such case only six per centum (6%) per annum shall be charged upon the said tax from the expiration of said eighteen months until the cause of such delay is removed.

(4) The personal representative of any estate from which any such tax is or may be due may make an estimate agreeable to the Department of Revenue and pay the same to the said Department, which shall receipt therefor, at any time before the same is determined, and shall thereupon be entitled to any discount and be relieved of any interest and penalty and shall have permits issued for the transfer of securities or real estate upon the amount so paid in the same manner as if the tax were then determined. Any excess so paid shall be refunded to the person so paying or entitled thereto by such Auditor out of the general expenditure fund, upon filing with such Auditor a copy of the order fixing such tax, and attached thereto a certificate stating the amount of refund due.

(5) In the absence of administration in this State upon the estate of a non-resident, the Department of Revenue, at the request of an executor or administrator duly appointed and qualified in the state of the decedent's domicile, or of a grantee under a conveyance made during the grantor's lifetime, and upon satisfactory evidence furnished him by such executor, administrator, or grantee, or otherwise, may determine whether or not any property of said decedent within

this State is subject to the provisions of this Act, and if so, may determnic the value of such tax and adjust the same with such executor, adminstrator, or grantee, and for that purpose may appoint an appraiser to appraise said property and the expense of such appraisal shall be charged upon such property in addition to the tax. The Department's certificate as to the amount of such tax and its receipt for the amount therein certified may be filed in the county court in the county where the property is located and when so filed shall be evidence of the payment of the tax, to the extent of such certification. Whenever in such a case the tax is not adjusted within six months after the death of the decedent, the proper county court, upon application of the Department of Revenue, shall appoint an administrator in this State.

§ 8. (1) No safe deposit company, trust company, corporation, bank or other institution, person or persons engaged in the business of renting safe deposit boxes or other receptacles of similar character, shall rent any such box or receptable without first requiring all persons given access to such thereto agree in writing to notify such safe depository, bailee or lessor, from which such box or receptacle is rented, of the death of any person having the right of access thereto, before seeking access to such box or receptacle after the death of such person; and all persons having the right of access to any such safe deposit box or receptacle, upon the death of any other person having access thereto, before seeking access to such box or receptacle, must notify such safe depository, bailee, or lessor, from whom such box or receptacle is rented, of the death of such person; and it shall be unlawful for any safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control, custody or partial custody of any safe deposit box or similar receptacle, to permit access thereto by anyone after the death of any person who at the time of his death had the right or privilege of access thereto either as principal, deputy, agent or co-tenant without the consent of the Department of Revenue or a person by it authorized to issue such consent. No safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control or custody or under partial control or partial custody securities, deposits, assets or property belonging to or standing in the name of a decedent who was a resident or non-resident, or belonging to or standing in the joint name of such a decedent and one or more persons, including the shares of the capital stock of, or other interest in, the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer herein provided, shall deliver or transfer the same to executors, administrators, or legal representatives, agents, deputies, attorneys, trustees, legatees, heirs, successors in interest of said decedent or to any other person or persons or to the survivor or survivors when held in the joint names of the decedent and one or more persons, or upon their order or request, without retaining a sufficient portion or amount thereof to pay any tax and interest which may thereafter be assessed thereon under this Act, and unless notice of the time and place of such delivery or transfer be served upon the Department of Revenue at least thirty days prior to said delivery or transfer; provided, that said Department or person by it in writing authorized to do so, may consent in writing to said delivery or transfer, and such consent shall relieve said safe deposit company, trust company, corporation, bank or other institution, person or persons from the obligations hereunder to give such notice or to retain any portion of said securities, deposits or other assets in their lawful possession or control.

When intangible personal property belonging to a decedent, non-resident, shall be found to be physically located in Kentucky, it shall be the duty of the Department of Revenue to so inform the State official collecting death tax in the State of domicile of the said decedent, provided that said State furnishes like information to the Kentucky Department of Revenue in a reciprocal manner.

And it shall be lawful for the Department of Revenue personally or by representatives, to examine said securities, deposits or assets at the time of said delivery or otherwise.

(2) Failure to comply with the provisions of this section shall render such safe deposit company, trust company, corporation, bank or other institution, person or persons, liable to a penalty of not more than twenty thousand dollars ($20,000.00) and in addition thereto said deposit company, trust company, corporation, bank or other institution, person or persons, shall be liable for the amount of taxes, interest and penalties due under this Act on said securities, deposits or other assets above mentioned, and said penalties and liabilities of said safe deposit company, corporation, bank or other institution, person or persons for the violation of this section may be enforced in an action brought by the Department of Revenue in any court of competent jurisdiction.

(3) An executor, administrator, or trustee, holding property subject to said tax, shall not deliver property or a specific legacy subject to said tax until he has collected the tax thereon. When a specific bequest of personal property other than money is subject to a tax under the provisions of this Act, and the legatee neglects or refuses to pay the tax upon demand, the executor or trustee may upon such notice as the court having jurisdiction of the settlement of the estate may direct be authorized to sell such property, or, if the same can be divided, such portion thereof as may be necessary, and shall deduct the tax from the proceeds of such sale, and shall account to the legatee for the balance, if any, of such proceeds, in lieu of the property. An executor or administrator shall collect taxes due upon land which is subject to tax under the provisions hereof from the heirs or devisees entitled thereto, and he may be authorized to sell said land if they refuse or neglect to pay said tax. When a conveyance made by

a decedent in his lifetime is subject to said tax, and the property thus conveyed, being personal property, is without the State, or is removed from the State before the tax is paid, such tax shall become a lien upon all property of the decedent; and the executor or administrator shall collect taxes due on account of such conveyance and may be authorized to sell any property subject to the lien of such tax, for the payment thereof, as in the other cases.

(4) If a legacy subject to said tax is charged upon or payable out of real estate, the heir or devisee, before paying it, shall deduct said tax therefrom and pay it to the executor, administrator or trustee. The payment of this tax shall be enforced in the same manner as the payment of a tax on a direct legacy itself could be enforced.

(5) When any interest in property less than an estate in fee is devised or bequeathed to one or more beneficiaries with remanider to others and the interest of one or more beneficiaries is subject to said tax, the executor shall deduct the tax upon such taxable interests from the whole property thus devised or bequeathed and whenever property other than money is so devised or bequeathed he may, unless the taxes upon all the taxable interests are paid when due by the beneficiaries, be authorized to sell such property or such portion thereof as may be necessary, as provided in subsection (3) of this section, and having deducted the unpaid taxes on such taxable interests from the proceeds of such sale, he shall account for the balance in lieu of the property sold as in other cases.

(6) The official or body charged with the administration of the death tax laws of the domiciliary state shall be deemed a creditor of the decedent and shall be entitled to sue in the courts of this State and to enforce such claim for taxes, penalties and/or interest due to such state or political subdivision. The provisions of this subdivision shall apply to the estate of the decedent not domiciled in this State only if the laws of his domicile contain a provision, of any nature, how-

ever expressed, whereby this State is given reasonable assurance of the collection of its death taxes, interest and penalties from the estates of decedents dying domiciled in this State.

§ 9. In case of a false or fraudulent return, or if the omission to fairly return, or in case of the failure to include in a return any property of a decedent subject to death tax under this Act, whether or not omission is with intent to evade the tax, the death tax due by reason thereof may at any time notwithstanding any provision of limitation elsewhere made and provided be assessed and collected by the Department of Revenue by the methods set out in this Act, including action in a court of competent jurisdiction.

§ 10. Every person who willfully and knowingly subscribes to or makes and false statement of facts, or knowingly subscribes to or exhibits any false paper or false report with intent to deceive any appraiser pursuant to the provisions of this Act, shall be guilty of a misdemeanor and punished by a fine of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00) or imprisoned not exceeding twelve months in the county jail, or by both such fine and jail sentence.

Any person charged with any duty under the terms of this Act who fails or refuses to perform the same shall be guilty of a misdemeanor, and shall be fined not less than Five Dollars ($5.00) nor more than One Hundred Dollars ($100.00).

§ 11. The provisions of this Act are severable. If any provision, section, or paragraph thereof, or if the application of any provision, section, or paragraph to any transfer affected by the operation of the Act, should be held unconstitutional or invalid, such decision regarding the provision, section, paragraph, or application, shall not affect or impair the remainder of the Act, it being hereby declared the legislative intent to tax separately the transfer of each class of property contemplated by any of its provisions.

§ 12. All tax collected under this Act shall be covered through the Department of Finance into the State treasury and credited to the general expenditure fund.

§ 13. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

§ 14. *Emergency.* Whereas, the present state revenue does not meet the immediate needs for the maintenance of the State government, an emergency is declared to exist and this Act shall bcome a law and be effective upon its passage and approval by the Governor.

Ordered that said bills be printed and referred to the Committee on Revenue and Taxation No. 1.

Mr. Silvers moved that the privilege of the floor be extended to Mr. W. W. Whitehead.

Said motion was agreed to.

Mr. Grogan moved that the House do now adjourn to meet again on tomorrow at one o'clock P. M.

Said motion was agreed to.

And then the House adjourned.

FRIDAY, APRIL 3, 1936.

The House was opened with prayer by the Reverend Olaf Anderson of the Presbyterian Church, South, of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
C. W. Anderson, Jr.
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Harry Davis
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
Jas. T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
D. T. Matlack
Duke Mayfield
W. H. Miller
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
L. K. Rice
Wade H. Riley
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

Dr. Shields moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was disagreed to.

Mr. Myers moved that the vote by which the motion of Dr. Shields to dispense with the reading of the Journal of yesterday's proceedings, was disagreed to, be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Myers moved that the reading of the Journal be dispensed with.

Said motion was agreed to.

Mr. Coleman moved that the privilege of the floor be extended to Mr. W. L. Phelps, former member of this House.

Said motion was agreed to.

Mr. Bowen moved that the privilege of the floor be extended to Messrs. Chester Hawkins, W. L. Hampton and Steve Miley.

Said motion was agreed to.

Mr. Dickson moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. Garnett moved that the privilege of the floor be extended to Mr. O. Z. Shults, of Hartford, Kentucky.

Said motion was agreed to.

A message was received from the Senate, announcing that they had passed a bill which originated in this House, entitled:

H. B. 1. An Act relating to revenue and taxation on the sale and distribution of alcoholic beverages and declaring an emergency.

With amendments thereto as proposed by the Senate.

Upon a call of the Counties and Legislative Districts, the following bills were introduced, viz.:

By Mr. Myers:

H. B. 17. An Act imposing an excise tax on cement, which is manufactured in or shipped into this State, providing for the collection and disposition thereof and prescribing penaltes for the violation of the provisions of this Act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That an excise tax of ten cents per barrel or fraction thereof, is hereby imposed on all cement, which is manufactured in or shipped into this state, which shall be in addition to any and all other taxes otherwise imposed by law.

§ 2. Every person who is now engaged or who shall hereafter engage in his own name, or in the name of the others, or in the name of his representatives or agents, in this state, in the business of manufacturing or shipping cement into this state shall, on or before the fifteenth day of each calendar month, render and transmit to the department of treasury, a verified statement on such forms as the department shall prescribe and furnish, of the total number of sacks of cement which was manufactured and shipped into this state, during the preceding calendar month, and shall, at the same time, pay to the department, the amount of the excise tax, which such person is required to pay in virtue of the provisions of this act, and the department shall issue and transmit to such person a receipt for the excise tax so paid.

§ 3. The department is hereby authorized, at any time during business hours, to examine the books, records, papers, receipts, invoices, and other effects of any such person for the purpose of ascertaining and determining whether the excise tax imposed by this act is being properly and fully paid. Any information obtained by the department or any of its employees as a result of the reports, investigations, examinations and verifications herein required, shall be confidential, except when ordered to be disclosed, in a proper proceeding by a court of competent jurisdiction, and any person who shall divulge any of such information shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in the sum of not less than fifty nor more than one thousand dollars and shall forfeit the office or appointment held.

§ 4. Any person, who shall fail, neglect or refuse to make the returns and to pay the excise tax, as herein prescribed or who shall refuse to permit the department of any of its duly authorized employees to examine the books, records, papers, receipts, invoices or other effects of such person, pertaining to the amount of cement manufactured or purchased, or who makes any incomplete, false or fraudulent return hereunder, or who does, or attempts to do anything whatsoever to avoid a full disclosure of the amount of cement manufactured or purchased, or to avoid the payment of the whole or any part of the excise tax hereby imposed, and due and owing from such person shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred nor more than one thousand dollars.

§ 5. All money collected under the provisions of this act, less an amount necessary to pay the expenses incurred in administering the provisions of this act, shall be paid into the general fund of the state treasury.

§ 6. As used in this act:

(a) The term "person" means and includes a person, firm, corporation, trustee, receiver, assignee for the benefit of creditors, executor or administrator.

(b) The term "barrel" means a barrel or other container having a capacity of four sacks.

(c) The term "cement" means cement in the form as it is manufactured at the cement plants.

(d) The term "manufactured" means any process of manufacturing cement for the purpose of making the resulting product suitable for commercial or other purposes.

(e) The term "department" means the department of treasury.

By Mr. Pfeiffer:

H. B. 18. An Act relating to foreign insurance companies doing business in this State and providing for the filing of statements as to premiums received on policies and the loss on said policies and providing for the payment of the tax on said premiums and for penalties to pay said tax and repealing all laws in conflict herewith, and providing the tax collected under this act shall be used to liquidate the state debt.

Said bill is as follows, viz.:

Be it enacted by the Generad Assembly of the Commonwealth of Kentucky:

§ 1. That every insurance company, whether writing accident, partial or whole life, health, assessment, casualty, fire, automobile, tornado, theft, or damage by rain policies, including fire, life or accident casualty companies, not organized under the laws of this State, but writing policies on contracts of insurance on lives or property located in this State, or doing business therein, shall, on the first day of December, or within thirty days thereafter, return to the Auditor of Public Accounts, for deposit in the Insurance Department, a statement made under oath of all premiums received for the twelve months preceding on policies or contracts of insurance written by their local resident agents and shall give the amount of premiums received by each local agency and the losses or amounts paid thereon, and shall at the same time pay into the State Treasury a tax of five ($5.00) dollars upon each one hundred ($100.00) dollars of premiums received and shall also make a statement in detail under oath of all premiums received for the twelve months preceding on policies or contracts of insurance covering property and lives located in this State, written either at the home office, branch offices, by brokers or by non-resident agents, or by reinsurance of companies not authorized to do business in Kentucky and also make statement in detail of the losses or claims or annuities paid under such policies, as well as all losses or claim or annuities paid to beneficiaries under such policies, and shall at the same time pay into the State Treasury a tax of five ($5.00) dollars upon each one hundred ($100.00) dollars of premiums so received; if not paid within thirty (30) days a penalty of five ($5.00) dollars additional for each one hundred ($100.00) dollars of the gross premium shall attach.

§ 2. Said statements of insurance written by other than authorized local agents duly licensed by the State of Kentucky, shall show each policy written, its number of assured or insured, date, expiration, amount, rate and premium and the kind and location of the property or the age, sex and occupation of persons so insured.

§ 3. This act shall apply to all corporations, companies and associations organized under the laws of any other state, territory or foreign country and admitted to transact the business of insurance in this state on the stock, mutual stock and mutual, or assessment plan.

§ 4. That in view of the fact that Kentucky now has approximately $25,000,000 outstanding today in state warrants, which is an obligation of the Commonwealth, this tax of five (5) cents shall be in lieu of all other taxes paid by such insurance companies, and the State Auditor and the State Treasurer, shall cause to be set aside this tax money collected under this Act for the specific purpose of reducing or liquidating our huge state debt.

§ 5. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

By Mr. Myers:

H. B. 19. An Act imposing an excise tax on the sale of butter substitutes, providing for the collection and disposition thereof, prescribing the rights, powers and duties of the Department of Revenue in connection therewith, providing for the licensing of solicitors and prescribing penalties for the violation thereof.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That as used in this act, and unless a different meaning appears from the context:

(a) The term "person" means a person, firm or corporation or a receiver or trustee in bankruptcy.

(b) The term "distributor" means any person who produces, refines, manufactures or compounds and thereafter sells butter substitutes in this state, either to a wholesaler or a retailer for purposes of resale.

(c) The term "wholesaler" means any person who sells butter substitutes in this state to a retailer, for purposes of resale.

(d) The term "retailer" means any person who sells butter substitutes to ultimate consumers and not for resale.

(e) The term "sale" includes exchange, barter, gift, offer for sale and distribution and excludes transactions in interstate or foreign commerce.

(f) The term "butter substitute" means any compound or compounds of animal or vegetable fat, or derivatives or products thereof such as tallow, beef fat, suet lard, lard oil, suine, lardine, intestinal fat, offal fat, cocoanut oil, cocoanut acid oil, olive oil, cottonseed oil or peanut oil, in combination with milk or butter, or any product of milk, or butter, either colored or uncolored, which does not contain at least eighty per cent of milk fat or butter fat, and which is sold or used as a substitute for butter.

(g) The term "package" means the individual package, box, can or other container in which butter substitutes are sold or intended to be sold to ultimate consumers thereof.

(h) The term "department" means the Department of Revenue.

§ 2. In addition to any and all other taxes which may be imposed by law, an excise tax on the sale of butter substitutes in this state is hereby levied and imposed at the rate of five cents per pound. Only one sale of the same article shall be used in computing the amount of tax due under the provisions of this act.

§ 3. The tax hereby imposed shall be paid by the purchase of stamps, as hereinafter provided in this act. A stamp or stamps shall be affixed to each package, the aggregate denomination or demoniations of which shall be not less than the amount of the tax due upon the contents thereof. The stamp or stamps so affixed shall be prima facie evidence of the payment of the tax imposed by this act.

§ 4. Unless such stamps shall have been previously affixed, they shall be affixed by the retailer prior to the delivery of any package of butter substitutes, or any part thereof, to any vendee.

§ 5. Subject to the provisions of Section 13 of this act, any distributor may elect to affix the stamps herein required prior to the sale of any such package of butter substitute to a wholesaler or a retailer, and any wholesaler may elect to affix such stamps prior to the sale of any such package of butter substitute to a retailer.

§ 6. Every stamp which is affixed to any such package shall be canceled or mutilated either by writing, across the face thereof, the initials of the person who cancels or mutilates such stamp and the date on which such stamp is canceled or mutilated, or in such other manner as the department may prescribe, and every such stamp shall be canceled or mutilated prior to the delivery of any such package, or any part thereof, to any vendee.

§ 7. Unless such stamps shall have been previously affixed, and except as hereinafter otherwise provided, every retail dealer shall, immediately after the receipt of any butter substitutes at his place of business, and prior to the sale thereof, affix the required stamps to each and every package thereof so received, and shall cancel or mutilate the stamps so affixed in the manner prescribed in this act. If such packages be received in boxes, cartons or containers and are to be kept in storage until needed in the regular course of business, such retailer shall, immediately after the receipt thereof, mark in ink on each such unopened box, carton or container, the word "Received" and the month, day and hour when so received and shall affix his signature thereto. Immediately after any such box, carton or container so marked is opened the retailer shall affix stamps to the several packages therein contained and shall cancel such stamps, as hereinbefore provided.

§ 8. Whenever any package containing butter substitutes is found in the place of business of any retailer which does not have canceled stamps affixed thereto, or whenever any box, carton or container containing packages of butter substitutes is found in the place of business of any retailer which is not marked as prescribed in Section 7 of this act, the prima facie presumption shall arise that such butter substitutes are kept in violation of the provisions of this act.

§ 9. At the time when any distributor or wholesaler shall sell or deliver any butter substitutes to any retailer, he shall make a true and correct duplicate invoice of such sale or delivery, showing the date of the delivery, the amount in pounds of each such consignment, the name and address of the retailer to whom such consignment was delivered, and whether the distributor or wholesaler paid the excise tax thereon and affixed and canceled the stamps as prescribed in this act. The duplicate invonce so prepared shall be kept by the distributor or wholesaler for a period of two years, subject to the use and inspection of the Department of Revenue.

§ 10. Every wholesaler and every retailer shall procure an invoice showing the amount in pounds of every consignment of butter substitutes which he receives, the date on which such consignment was received, the name and address of the distributor or wholesaler from whom such consignment was received, whether the excise tax thereon was paid and whether the stamps were affixed and canceled as prescribed in this act. The invoice so procured shall be kept by the wholesaler or retailer for a period of two years, subject to the use and inspection of the Department of Revenue.

§ 11. If any such consignment of butter substitutes is transported into this state by any railroad or express company or other common carrier, such common carrier shall file a copy of the freight bill with the Department of Revenue, within ten days after the delivery of such consignment at its destination.

§ 12. The Department of Revenue shall design and procure the stamps herein provided for, and shall sell such stamps to any person on application and upon the receipt of the face value thereof, except that the department may sell such stamps to wholesalers or retailers in this state or to wholesalers or distributors outside of this state at a discount of not to exceed ten per cent of the face value thereof as a commission to such retailer, wholesaler or distributor for affixing and canceling such stamps. The Department of Revenue shall redeem and pay for any unused stamps.

§ 13. The Department of Revenue shall enforce and administer the provisions of this act and is hereby authorized to adopt and promulgate such rules and regulations as it may deem necessary to carry out the provisions of this act. The department may adopt different detailed regulations applicable to the different methods observed and the different under which butter substitutes are sold in this state, prescribing, in each class of cases, upon whom, as between the distributor, wholesaler or retailer, the primary duty of affixing and canceling the stamps shall devolve, and the manner in which stamps shall be affixed. Any such regulation exempting a wholesaler or a distributor from affixing and canceling stamps, under the circumstances of the particular case, shall be a defense in the prosecution of such wholesaler for a violation of any of the provisions of Section 19 of this act.

§ 14. All books, papers, records and invoices of any distributor, wholesaler, or licensed solicitor, retailer, in this state showing his sales, receipts and purchases of butter substitutes shall at all times during the usual business hours of the day be open for the inspection of the Department of Revenue or any of its duly authorized agents. The Department of Revenue or any of its duly authorized agents is hereby authorized to examine the stock of butter substitutes in and upon any premises where such butter substitutes are placed, stored or sold, and to make any other investigations for the purpose of ascertaining and determining whether the provisions of this act are being complied with.

§ 15. No person shall solicit orders for the future delivery of any butter substitutes for any distributor, wholesaler or retailer unless and until such person shall have applied for and secured a license from the Department of Revenue authorizing him so to do. Any person desiring to obtain such a license shall make application therefor on a blank form which shall be prscribed and furnished by the Department of Revenue. The fee for a license shall be fifty dollars and every license shall be so issued as to expire on the 30th day of June of the year in which it is issued. No license shall be issued to any such person unless the distributor, wholesaler or retailer for whom he intends to solicit orders shall agree in writing that the stamps required by this act will be affixed to each and every package of butter substitutes which is sold by such licensee and transported into this state. If any such distributor, wholesaler or retailer shall violate any of the terms of such agreement, the license of such licensee shall be revoked.

§ 16. Whenever the department or any of its duly authorized agents shall discover any butter substitutes subject to the excise tax, as prescribed in this act, and upon which the tax has not been paid, as herein prescribed, the department or its agent is hereby authorized and directed to seize and take possession of such butter substitutes and such butter substitutes shall thereupon be deemed to be forfeited to the state, and the department may, within a reasonable time thereafter, sell such forfeited butter substitutes. A notice of such sale shall be posted on the premises where the seizure is made or shall be published in a newspaper having a general circulation in the county wherein such seizure is made at least five days before the date of the sale. From the proceeds of such sale, the department shall pay the tax due thereon, together with a penalty of fifty per cent thereof and all costs incurred in such proceedings, and shall pay the residue, if any, to the person in whose possession such forfeited butter substitutes were found. All money collected under the provisions of this section shall be paid into the state treasury. The seizure and sale of butter substitutes as provided in this section shall not relieve the person who is in possession thereof from a criminal prosecution for the violation of the provisions of this act.

§ 17. All money received and collected by the department under and by virtue of any of the provisions of this act shall be paid into the state treasury and shall be credited to the General Fund.

§ 18. The department is hereby authorized to prepare and print such blanks, forms, reports, stamps, receipts and any and all other things which may be necessary to provide for the administration of this act.

§ 19. Whoever sells any package of butter substitutes in this state or whoever has any package containing any butter substitute in his possession, however and from whomsoever obtained, except as provided in Section 7 of this act, unless the stamps required by this act be affixed to such package, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any amount not exceeding two hundred dollars or imprisoned not more than ninety days, or both, in the discretion of the court.

§ 20. Whoever falsely or fraudulently makes, forges, alters or counterfeits any stamp prescribed by the department under the provisions of this act, or causes or procures any such stamp to be falsely or fraudulently made, forged, altered or counterfeited, or knowingly and willfully utters, publishes, passes or tenders as true, any such false, altered, forged or counterfeited stamp, or uses any such stamp more than once for the purpose of evading the payment of the tax hereby imposed shall be deemed guilty of a felony and upon conviction thereof shall be confined in the penitentiary for a period of not less than one year and not more than ten years.

§ 21. Whoever violates any of the provisions of this act or any rule or regulation of the department adopted and promulgated under and by virtue of the authority of this act and for the violation of which no penalty is provided by this act or by any other law of this state shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than twenty-five dollars or more than one hundred dollars.

§ 22. If any clause, sentence, paragraph or part of this act shall, for any reason, be adjudged invalid by any court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

By Mr. Dunlap:

H. B. 20. An Act to repeal Subsection (h), Section 17, of Chapter 90 of the Acts of 1920 as amended and re-enacted by Subsection (h) of Section 1 of Chapter 78 of the Acts of 1924, being an act relating to vehicles; regulating their use and operation on the public highways of this Commonwealth; providing for the registration and licensing of motor vehicles; fixing the amount of license, and manner of payment thereof; providing for the registration and licensing of operators of motor vehicles and the amount of such license; providing the method of registration of motor vehicles; and preventing illegal traffic in vehicles; providing penalties for the violation thereof; said subsection now being Subsection (h) of Section 2739g-63, of Carroll's Kentucky Statutes, 1930 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Subsection (h), Section 17, of Chapter 90, Acts of 1920 as amended and re-enacted by Subsection (h), of Section 1, of Chapter 78 of the Acts of 1924, being an act relating to vehicles; regulating their use and operation on the public highways of this Commonwealth; providing for the registration and licensing of motor vehicles; fixing the amount of license, and manner of payment thereof; providing for the registration and licensing of operators of motor vehicles and the amount of such license; providing the method of registration of motor vehicles; and preventing illegal traffic in vehicles; providing penalties for the violation thereof, said subsection now being Subsection (h), of Section 2739g-63, of Carroll's Kentucky Statutes, 1930 Edition, be and the same is hereby repealed.

By Mr. Scheben:

H. B. 21. An Act pertaining to revenue and taxation requiring persons, partnerships, and/or corporations to obtain insurance on a motor vehicle before operating it over and upon the highways of the Commonwealth of Kentucky, providing that the Commonwealth of Kentucky shall carry said insurance and fixing the amount of premium therefor and delegating the Insurance Department to have control of the fees collected therefrom and providing for the disposal of any and all profits accruing to the Commonwealth from the collections of said fees and exempting motor vehicles which are now required under the laws of the Commonwealth of Kentucky to carry insurance and busses and trucks operated in intrastate or interstate commerce as part of a trucking line.

Said bill read as follows, viz.:

Whereas, Many persons, partnerships and/or corporations are at the present time operating motor vehicles over and upon the highways of the Commonwealth of Kentucky and many of said operators are without financial responsibility, and

Whereas, Numerous persons have been injured through the operation of said vehicles, and

Whereas, The injured parties have been unable to recover any claim for damages for personal injuries or injury to their property, and

Whereas, A person wrongfully injured is entitled to be compensated: *Now, Therefore,*

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That every person, partnership and/or corporation operating a passenger car said motor vehicle having been licensed in the Commonwealth of Kentucky and said vehicle being used solely for the benefit of said person, partnership and/or corporation and not operating for hire shall at the time of obtaining a license for said vehicle pay into the office of the clerk issuing said license for said vehicle the sum of eighteen ($18.00) dollars for insurance on said vehicle.

§ 2. Every person, partnership and/or corporation operating a motor or electric truck over and upon the highways of the Commonwealth of Kentucky solely for the benefit of the said person, partnership and/or corporation and said vehicle not being for hire and having the capacity of one (1) ton or less shall at the time of the issuance of a license for said vehicle by the county clerk pay into said clerk's office the sum of twenty-two ($22.00) dollars for insurance upon said vehicle, and for every additional ton capacity or fraction thereof pay an additional sum of twenty-five ($25.00) dollars per ton capacity or fraction thereof.

§ 3. The Commonwealth of Kentucky through the county clerk of each county shall issue a certificate to each person, partnership and/or corporation showing that said vehicle has been insured with the Commonwealth of Kentucky for the sum of five thousand ($5,000.00) dollars for damages caused by the operation of it over and upon the public highways of the Commonwealth of Kentucky to the person or property of another. Said certificate to be made in triplicate the original to be given to the person, partnership and/or corporation paying therefor, one copy to be retained by the county clerk and one copy to be transmitted to the Commissioner of Insurance at Frankfort, Kentucky. Said county clerk shall receive as compensation for the issuance of said certificate the sum of fifty (50c) cents to be charged and collected by him from the person, partnership and/or corporation obtaining the certificate.

§ 4. The county clerk shall at the end of each day transmit and send to the Insurance Commissioner a copy of all of the certificates issued by him during said day and all moneys collected for insurance on motor vehicles to the Insurance Commissioner at Frankfort, Kentucky.

§ 5. It shall be the duty of the Insurance Commissioner to segragate said moneys paid over to him by the county clerks for the said certificates and to hold it solely for the payment of any and all claims that may arise by reason of injuries done to persons or property by a vehicle operated under a certificate issued under the authority of this act by any of the county clerks provided, however, that in no event shall any sum in excess of five thousand ($5,000.00) dollars be paid for injuries inflicted by a motor vehicle insured with the Commonwealth of Kentucky resulting from one accident.

§ 6. It shall further be the duty of the Insurance Commissioner to investigate any and all claims for damages or compensation made by any person for injuries received through the operation of a motor vehicle insured by the Commonwealth of Kentucky and he shall have the right and power to compromise any and all claims or to refuse to pay any and all claims and in the event of refusal shall have the right to employ attorneys to defend the Commonwealth of Kentucky and the person, partnership and/or corporation insured and said Insurance Commissioner is hereby authorized to pay a reasonable fee to attorneys so employed in the defense of said claims and in no event, however, is said compensation to exceed the sum of two hundred ($200.00) dollars.

§ 7. The Insurance Commissioner is hereby empowered and authorized to employ five (5) people as investigators to investigate any and all claims and shall pay them a salary not in excess of the sum of two thousand ($2,000.00) dollars per year nor shall any two (2) investigators live within the same congressional district.

§ 8. The holder of any certificates under the provisions of this act shall within ten (10) days after the happening of any accident make a written report thereof to the Insurance Commissioner at Frankfort, Kentucky.

§ 9. This act shall not apply to any vehicle operated for hire or as a bus or part of an intrastate or interstate trucking line or any vehicle that is now required to carry insurance under the laws of the Commonwealth of Kentucky.

§ 10. A license shall not be issued by any county clerk for the operation of a motor vehicle over and upon the highways of the Commonwealth of Kentucky who refuses or is unable to comply with the requirements of this act as to the payment for insurance.

§ 11. The payment of the proper fee as heretofore set out shall entitle the certificate holder to insurance in the sum of five thousand ($5,000.00) dollars for the period of time for which his license tag is issued and the same fees for insurance shall be paid for said insurance at each time a new license tag is issued for the operation of said vehicle.

§ 12. It shall be the duty of the Insurance Commissioner to make a report annually to the Governor of Kentucky, said report to be made during the month of January of each year and showing the amounts paid into the Commonwealth for insurance, the expense entailed by the Commonwealth in the handling of said insurance and the amount paid out by the Commonwealth in the settlement of claims, judgments or awards and the balance remaining on hand.

§ 13. Any balance remaining on hand in excess of one hundred and fifty thousand ($150,000.00) dollars shall be paid over to the Treasurer of the Commonwealth of Kentucky and by him placed in the general funds of the Commonwealth.

§ 14. The provisions of this act are hereby declared severable and in the event that any portion hereof shall be declared unconstitutional the remainder shall remain in full force and effect.

§ 15. All acts or parts of acts in conflict herewith are hereby repealed except as to provisions requiring insurance to be carried and maintained upon motor vehicles.

By Mr. McGlothen:

H. B. 22. An Act concerning revenue and taxation and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions*: (a) The word "person" as used in this act includes individuals, co-partnerships, business trusts, joint stock companies, and corporations.

(b) The word "dealer" in this act includes all persons who are engaged in the sale or motor vehicles at retail and who are required hereunder to make reports and keep records.

(c) The term "department" as used in this act shall mean the Department of Revenue of the Commonwealth of Kentucky.

(d) The word "retail price" shall mean the full consideration in money, credits, or money's worth, received in exchange for a motor vehicle.

(e) The word "motor vehicle" as used in this act shall include all vehicles as fully equipped for use which are propelled otherwise than by muscular power and which are used for transportation of persons or property over and upon the public highways of the Commonwealth excepting, however, road rollers and such vehicles as travel exclusively on rails.

§ 2. An excise tax is hereby imposed upon the sale at retail of all motor vehicles equal to three per cent (3%) of the retail price of such motor vehicles and every dealer is required to collect the tax from the purchaser and account to the State of Kentucky for such tax in the manner provided in this act.

Provided, however, that no tax shall be imposed upon the sale of a motor vehicle to the United States, to this State, or to any political division of this State, to any municipality or to any charitable, religious, or educational institution of the State of Kentucky.

§ 3. The dealer is hereby required to keep and preserve such written and other records as the department may require to facilitate enforcement of this act. On or before the tenth day of the month following the end of each month, beginning with the month following which this act becomes a law, the dealer shall mail to or file with the department a verified written report of the total gross sale of motor vehicles made during the preceding month, together with such additional information as the department may require and shall remit with said report the amount of tax due under Section 2 of this act. Provided, however, that the department, on the basis of information herein authorized to be secured or on the basis of an audit of the return, may require additional payments if found to be due.

§ 4. The department is hereby charged with the enforcement of this act and may promulgate such rules and regulations and prescribe such forms as are necessary or desirable for the enforcement of its provisions. The department, or any representative appointed by it in writing, is hereby authorized to examine the books, records, papers, inventories and files of any dealer pertaining to the gross sales made taxable by this act; to examine witnesses under oath for the purpose of verifying the accuracy of returns made by dealer; and to examine the books, records, papers, and files of manufacturers and wholesale dealers for the purpose of verifying reports made under the provisions of this act or of determining whether or not the act is being violated.

The department shall have the power to institute legal proceedings for the purpose of ascertaining the amount of tax due under the provisions of this act and to enforce the collection thereof with the penalties and interest thereon. The department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalties and interest thereon, as set out herein, have an attachment against the property of the dealer or garnishment against his creditors without the execution of a bond upon the filing of an affidavit alleging the nature of the claim, that it is just, the sum which the department believes the State should recover from the dealer, and any of the grounds upon which the Civil Code of Practice authorizes the issuance of an attachment in civil causes.

§ 5. Any information obtained by the department or any agent or representative thereof, as a result of the reports, investigations, or verifications herein authorized to be made, shall be confidential and any person divulging any such information except upon order of a court of competent jurisdiction or to an officer of the Commonwealth entitled to receive the same in his official capacity, shall be fined not exceeding five hundred dollars ($500.00).

§ 6. No suit shall be maintained in any court to restrain or delay the collection of the tax herein imposed on any ground whatever, but the aggrieved dealer shall pay under protest the tax as and when due and may at any time within two (2) years after date of such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in an action in any court, State or Federal, otherwise having jurisdiction of the subject matter for the recovery of the tax so paid with legal interest thereon from the date of payment. If it can be finally determined that said tax or any part thereof was wrongfully collected for any reason it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected, together with interest thereon; and the Treasurer shall pay the same at once out of the general expenditure fund of the State in preference to other warrants or claims against the Commonwealth. Separate suits need not be filed for each separate payment by any dealer, but recovery may be had in one suit for all suits heretofore paid or not barred by the limitation of two (2) years herein· imposed.

§ 7. Any dealer who shall fail or refuse to make the returns herein prescribed or shall refuse to permit the department, its agents, or representatives appointed by it in writing, to examine books, records, papers and files of such persons pertaining to the gross receipts made taxable by this act, or who makes an incomplete, false, or fraudulent return hereunder, or who does or attempts to do anything whatever to avoid full disclosure of the amount of business done or to avoid the payment of the whole or any part of the tax or penalties due, shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000.00) and, in case the offender is an individual, he may be imprisoned in the county jail not exceeding six (6) months or both so fined and imprisoned. Provided that in case such violator be a business trust, joint stock company, corporation, or fiduciary, the principal officer and/or the officer or officers responsible for such violations may be punished by such imprisonment. Such fine shall be additional to other fines and/or penalties herein provided. Any dealer who shall fail to pay the tax due hereunder in the time specified in this act shall pay a penalty equal to twenty (20) per cent of the amount of tax due and delinquent and in addition thereto interest at the rate of six (6) per cent per annum on both the original amount of tax and the penalty imposed in this paragraph.

§ 8. All revenues derived from the operation of this act shall, as collected, be covered into the State Treasury and credited to the general expenditure fund.

§ 9. Whereas the present State revenue does not meet the immediate needs for the maintenance of the State government and its agencies an emergency is declared to exist and this act shall bcome a law and be effective on its passage and approval by the Governor.

Ordered that said bills be printed and referred to the Committee on Revenue and Taxation No. 1.

Mr. Brown of the Committee on Revenue and Taxation No. 1, to which the same had been previously referred, reported a bill entitled:

H. B. 16. An Act to repeal, amend, and re-enact chapter one hundred and eleven of the Acts of the General Assembly of 1924, as amended by chapter one hundred and seventy-six of the Acts of the General Assembly of 1926, now codified as Carroll's Kentucky Statutes, 1930 Edition, Sections 4281a-1 to 4281a-11, inclusive.

With Committee amendments thereto.

With the expression of opinion that said bill ought to pass.

Said bill was read at length the first time and ordered to be placed on the Calendar.

Dr. Shields moved that the House do now take up for immediate consideration the following bill, viz.:

H. B. 1. (For title see Journal of today, *ante.*)

With amendments thereto as proposed by the Senate.

Said motion was agreed to.

(For bill see House Journal of April 1.)

Said amendments as proposed by the Senate, are as follows, viz.:

1. Amend H. B. 1 in Senate by substituting the word "spirits" for the word "beverages" in line 4, Section 4, page 4.

2. Amend H. B. 1 in Senate by striking therefrom Section 5 and inserting in lieu thereof the following language:

Section 5. *Who shall pay the tax.* The wholesaler who purchases or otherwise acquired title to any alcoholic beverage made taxable by this act shall within twenty-four (24) hours from the time possession of said beverage is acquired affix or cause to be affixed the stamps required under the provisions of this act, providing that in the event a wholesaler in purchasing or otherwise acquiring title to said beverage resells or otherwise disposes of same without ever having actual possession of said beverage shall affix or cause to be affixed said stamps as provided herein before delivery of said beverages shall be made to the purchaser or donee of said beverage.

3. Amend line 1, of Section 6, page 4, of H. B. 1 in the Senate by striking therefrom the words "or manufacturer".

4. Amend H. B. 1 in the Senate, by adding at the end of line 6, page 4, of Section 3 in the printed bill, the following:

"Provided, however, that the provisions of this act shall not apply to the manufacture, sale, gift or distribution of any wine manufactured, sold, given away or distributed and used solely for sacramental purposes."

5. Amend H. B. 1 in the Senate by striking therefrom all of Section 14 of the printed bill, as amended in the House and inserting in lieu thereof the following:

"The sale or distribution of alcoholic beverages manufactured in or imported into this State for shipment permanently out of the State to be sold through retail outlets without the State and consumed without the State shall not be subject to the tax imposed by this act. Provided, however, that the containers of such alcoholic beverages for shipment permanently out of the State to be sold through retail outlets without the State and consumed without the State shall have affixed thereon, in such manner as the department may prescribe, a stamp provided under Chapter 149, Acts of the General Assembly of 1934 or (if no such stamp is required) an export stamp which must be furnished by the department without charge."

Amendments Nos. 1, 2, 3, 4 were then each and severally concurred in.

Mr. Myers moved the previous question on Amendment No. 5.

Thereupon the Speaker announced "Shall the main question be now put?"

Which was decided in the affirmative.

Said amendment No. 5 was then concurred in.

Said bill was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxton
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Harry Davis
George W. Dunlap
Howard G. Early
Walter R. Fannin
T. P. Fitzpatrick
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
Jas. T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
D. T. Matlack
Duke Mayfield
W. H. Miller
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
L. K. Rice
Wade H. Riley
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
John Kirtley, Spkr.

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Mr. Douglas Bolling moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

Dr. Shields moved that the House do now adjourn, to meet again on Monday, April 6, at one o'clock p. m.

Said motion was agreed to.

And then the House adjourned.

MONDAY, APRIL 6, 1936.

The House was called to order by the Hon. Joe E. Robinson, Speaker pro Tem.

The House was opened with prayer by Carl Scheben of the county of Campbell.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
Howard G. Early
Garland Embry
Walter R. Fannin
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Fred A. Gnau
Eugene Gough
Jas. T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen

D. T. Matlack
Duke Mayfield
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

Dr. Shields moved that the reading of the Journal of Friday's proceedings be dispensed with.

Said motion was agreed to.

Dr. Shields moved that the session of today be extended indefinitely.

Said motion was agreed to.

Dr. Shields moved that when the House adjourn today, it adjourn to meet again on Wednesday, April 8, at eleven o'clock a. m., out of respect to the memory of the late Hon. Clarence E. Evans, member of this House from the county of Simpson.

Said motion was agreed to.

Mr. Myers moved that an Escort Committee of ten members of this House be appointed by the Speaker to attend the funeral of the late Hon. Clarence E. Evans, whose funeral will be held in Franklin, Kentucky, on tomorrow at two o'clock p. m., and moved further that the Clerk of this House be directed to order a floral design to be sent to Franklin, Kentucky, for the funeral of the Hon. Clarence E. Evans.

Said motion was agreed to.

Thereupon the Speaker, pro Tem. appointed Messrs. Brown, Gnau, Hammons, Kirkman, Milam, W. H. Miller, Myers, Dr. Shields, Wells and Williams as members of said Escort Committee.

Mr. McCarthy moved that the privilege of the floor be extended to Mr. S. K. Holland of Providence, Kentucky.

Said motion was agreed to.

Mr. Chandler moved that the privilege of the floor be extended to Mr. Harry Dunn of Smithland, Kentucky.

Said motion was agreed to.

Mr. Van Bever moved that the privilege of the floor be extended to Messrs. Earl Caton and Walter Grun of Pineville, Kentucky.

Said motion was agreed to.

Dr. Byers moved that the privilege of the floor be extended to Professor Shultz.

Said motion was agreed to.

Mr. Silvers moved that the privilege of the floor be extended to Dr. Eads.

Said motion was agreed to.

Mr. Wagner moved that the privilege of the floor be extended to Messrs. J. R. True and Paul Browning from Kenton County.

Said motion was agreed to.

The Clerk read to the House the following telegram from the Hon. John Kirtley, Speaker of the House, viz.:

Brooks L. Hargrove,
Chief Clerk, House of Representatives,
Frankfort, Kentucky.

Serious illness of my father prevents me being present for a few days. You are authorized to notify Hon. Joe E. Robinson that I have designated him Speaker, pro Tem. during my absence.

JOHN KIRTLEY.

The following bill was introduced, viz.:

By Mr. Records:

H. B. 23. An Act entitled an Act levying a tax equal to three per cent of the total of all moneys wagered each day on race meetings authorized by the State Racing Commission and levying a tax upon admissions to said race meetings; providing the method and manner of paying said taxes; repealing all laws in conflict herewith and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of Kentucky:

§ 1. Any person, association, trust or corporation holding a permit to conduct a horse race meeting authorized by the State Racing Commission shall pay for the purpose of conducting such race or races, a tax equal to three per cent of the total of all money wagered each day at such race meeting.

§ 2. In addition to the aforesaid taxes, each person, association, trust or corporation authorized to conduct horse race meetings under this act shall pay fifteen per cent of all monies received each day from admissions paid by persons attending said races or the sum of ten cents on each and every admission whichever sum is the greater.

§ 3. The payment of taxes as provided for in this act shall be accompanied by a report under oath showing the total of said contributions and admissions on the races covered by such report and such other information as the State Tax Commission may require. If any free passes or complimentary admission cards shall be issued to guests by any licensee, the licensee of such track shall pay to the State Tax Commission the same tax upon such complimentary admission cards as if same were sold at the regular and usual admission rate; but nothing herein shall be construed to prevent the issuance of tax free passes to officials of said tracks and actual employees of the licensee or other persons engaged actually in the work at such race track. Provided, however, that representatives of the newspapers who are accredited with gathering the news of the races may be considered employees of said track.

Any person, association, trust or corporation operating or conducting a race meeting as provided in this act shall execute bond with good and sufficient sureties to the Commonwealth of Kentucky that said taxes as provided in this act, will be paid at the conclusion of said race meeting. Said bond shall be executed before the State Tax Commission who is authorized to collect the taxes under this act.

§ 4. All laws and parts of law in conflict herewith are hereby repealed.

§ 5. Whereas, the Commonwealth of Kentucky is in dire need of revenue to carry on the functions of government and that the credit of the Commonwealth of Kentucky will become impaired unless immediate revenue is provided, an emergency is hereby declared and this act will become a law from and after its passage and approval by the Governor.

Said bill was ordered printed and referred to the Committee on Revenue and Taxation No. 1.

The House took up for consideration from the Calendar a bill entitled:

H. B. 16. An Act to repeal, amend and re-enact chapter one hundred and eleven of the Acts of the General Assembly of 1924, as amended by chapter one hundred and seventy-six of the Acts of the General Assembly of 1926, now codified as Carroll's Kentucky Statutes, 1930 Edition, Sections 4281a-1, to 4291a-11, inclusive.

With Committee amendments thereto.

Ordered that said bill be read the second time.

The Constitutional provision as to the second reading of said bill at length being dispensed with, said bill was read the second time by its title only.

Ordered that said bill be placed in the Orders of the Day.

Mr. W. T. Baker moved that a bill entitled:

H. B. 3. An Act relating to revenue and taxation, imposing a tax upon the manufacture of each proof gallon of distilled spirits, etc.

Be taken from the Committee on Revenue and Taxation No. 1 and advanced to a reading.

Mr. Gnau raised the point of order that the motion as made by Mr. W. T. Baker was out of order for the reason that said motion should have been made during motion hour.

Mr. Dickson of the Committee on Enrollment, reported that they had examined and found to be correctly enrolled a bill entitled:

H. B. 1. An Act relating to revenue and taxation on the sale and distribution of alcoholic beverages and declaring an emergency to exist.

Thereupon all other business was suspended, said bill was read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker pro Tem., in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bill to the Senate.

Mr. Gnau moved that the House do now adjourn.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. W. T. Baker and Hammons, were as follows, viz.:

Those who voted in the affirmative were—

Douglas Bolling
Ollie J. Bowen
Wallace Brown
V. O. Chandler
Roscoe Claxon
George S. Clay
Sam Dever
Stanley S. Dickson
Walter R. Fannin
James Garnett, Jr.
Ferd A. Gnau
W. L. Hampton, Jr.
Price Holbrook
Ira W. Hulette
J. F. Ladd
W. E. Mull
Tyler Munford
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo

A. W. Ross
Carl Scheben
Carl Schneider
Bruce Sloan
J. J. Thomas
S. J. Wagner
Joseph L. Wall
Henry Ward
—32

Those who voted in the negative were—

H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Dr. R. A. Byers
Jas. C. Carter
J. A. Coleman
Roy Conway
George W. Dunlap
Garland Embry
T. P. Fitzpatrick
H. Myer Garner
G. W. Garrett
Eugene Gough
Jas. T. Hamilton
C. L. Hammons
Thomas W. Hines
Clyde S. Howard
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
Robert E. Lee
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
D. T. Matlack
Duke Mayfield
W. H. Miller
John B. Mollett
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Harry C. Records
L. K. Rice
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
H. C. Steely
Dr. H. S. Swope
W. R. Tapp
R. Van Bever, Jr.
L. R. Wells
W. G. Williams
Charles Wylie
—49

Mr. W. T. Baker moved that the Rules of this House be suspended and that a bill entitled:

H. B. 3. (For title see Journal of today, *ante.*)

Be taken from the Committee on Revenue and Taxation No. 1, and advanced to a reading.

Mr. Garnett moved that the motion as made by Mr. W. T. Baker, be laid on the table.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Garnett and Munford, were as follows, viz.:

Those who voted in the affirmative were—

Douglas Bolling
Ollie J. Bowen
Wallace Brown
V. O. Chandler
Roscoe Claxon
George S. Clay
Sam Dever
Walter R. Fannin
James Garnett, Jr.
Fred A. Gnau
W. L. Hampton, Jr.
Price Holbrook
Ira W. Hulette
J. F. Ladd
W. E. Mull
Tyler Munford
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Wade H. Riley
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
W. R. Tapp
J. J. Thomas
S. J. Wagner
—28

Those who voted in the negative were—

H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Dr. R. A. Byers
Jas. C. Carter
J. A. Coleman
Roy Conway
Herbert Cook
Stanley S. Dickson
George W. Dunlap
Garland Embry
T. P. Fitzpatrick
H. Myer Garner
G. W. Garrett
Eugene Gough
James T. Hamilton
C. L. Hammons
Thomas W. Hines
Clyde S. Howard
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
D. T. Matlack
Duke Mayfield
W. H. Miller
John B. Mollett
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Harry C. Records
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
—53

Mr. Hammons moved the Previous Question on the motion as made by Mr. W. T. Baker.

Thereupon the Speaker pro Tem. announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

The motion as made by Mr. W. T. Baker, was then disagreed to, having failed to receive a majority of all the members elected.

The yeas and nays being required thereon by Messrs. W. T. Baker and Myers, were as follows, viz.:

Those who voted in the affirmative were—

H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Dr. R. A. Byers
Jas. C. Carter
J. A. Coleman
Roy Conway
Herbert Cook
Garland Embry
T. P. Fitzpatrick
H. Myer Garner
G. W. Garrett
Eugene Gough
Jas. T. Hamilton
C. L. Hammons
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
D. T. Matlack
Duke Mayfield
W. H. Miller
John B. Mollett
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Harry C. Records
Ray O. Shehan
P. L. Sidebottom
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
L. R. Wells
W. G. Williams
Charles Wylie

—49

Those who voted in the negative were—

Douglas Bolling
Ollie J. Bowen
Wallace Brown
V. O. Chandler
Roscoe Claxon
George S. Clay
Sam Dever
Walter R. Fannin
James Garnett, Jr.
Fred A. Gnau
W. L. Hampton, Jr.
Ira W. Hulette
J. F. Ladd
W. E. Mull
Tyler Munford
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Wade H. Riley
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider

Dr. B. F. Shields
Bruce Sloan
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
Henry Ward

—31

Mr. Douglas moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

WEDNESDAY, APRIL 8, 1936.

The House was called to order by The Hon. Joe E. Robinson, Speaker pro Tem.

The House was opened with prayer by the Reverend Garland Embry of the county of Grayson.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
Jas. T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy

T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

Mr. Davis moved that the reading of the Journal of Monday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Clark moved that the privilege of the floor be extended to Mr. and Mrs. Fithian Rye of Carlisle, Kentucky.

Said motion was agreed to.

Mr. Cook moved that the privilege of the floor be extended to Mr. S. S. Hunter of Bedford, Kentucky.

Said motion was agreed to.

Mr. Mayfield moved that the privilege of the floor be extended to Mrs. George Hatcher.

Said motion was agreed to.

Mr. Claxon moved that the privilege of the floor be extended to Mr. Harry S. Hale of Princeton, Kentucky.

Said motion was agreed to.

Mr. H. H. Allen moved that the privilege of the floor be extended to Messrs. W. L. Long and J. B. Wise and Miss Mary Margaret Jones of Brandenburg, Kentucky.

Said motion was agreed to.

Mr. McCarthy moved that the privilege of the floor be extended to Mr. S. K. Holland of Providence, Kentucky.

Said motion was agreed to.

Mr. Silvers moved that the privilege of the floor be extended to Misses Anna B. Peck and Fanny Herman and Messrs. J. S. Mitchell and Willard Overstreet.

Said motion was agreed to.

Mr. Rice moved that the privilege of the floor be extended to Mr. Grannis Howard.

Said motion was agreed to.

Mr. Sidebottom moved that the privilege of the floor be extended to Messrs. Elmer Davis and Oscar Orr, W. S. Brinn, L. M. Ackman and Miss Ackman.

Said motion was agreed to.

Mr. Myers offered the following resolution, viz.:

WHEREAS, under Rule 42, page 16 of the House Rules adopted by and governing the House of Representatives during this extraordinary session of the General Assembly provide as follows:

"provided, however, that no committee shall hold or refuse to report a bill for an unreasonable time, and if same shall not be reported in a reasonable time, the said bill may be called up by any member of the House and be considered in the same manner it would have been considered without expression of such committee. The House shall, at all times, be the judge of what shall constitute a reasonable or unreasonable length of time under this provision''; and,

Whereas, House Bill No. 3 was introduced and referred to the Committee on Revenue and Taxation No. 1, ten days ago and said committee has convened on several occasions during that period and have taken no action on said bill and are now holding the same and refusing to report it: *Now Therefore*: By the authority vested in the House of Representatives under the above quoted rule to determine when a bill is held by a committee an unreasonable time, it is hereby declared to be the judgment of the House that House Bill No. 3 has been held by the Committee on Revenue and Taxation No. 1, an unreasonable time and on motion of the sponsor of the bill, said House Bill No. 3, shall be read into the Calendar and considered the same as if it had been reported by the Committee without expression of opinion.

Mr. Myers moved the Previous Question.

Thereupon the Speaker pro Tem. announced, ''Shall the Main Question be now put?''

Which was decided in the affirmative.

Dr. Shields raised the point of order that a majority of all the members elected to the House would be necessary for the adoption of said resolution.

The Speaker ruled that the point of order as raised by Dr. Shields was well taken.

From this decision, the following appeal was taken, viz.:

Shall the ruling of the Speaker pro Tem. prevail, to-wit: fifty-one votes required to pass resolution.

Rodes K. Myers.
H. T. Baker.
John M. Hunnicut.

Thereupon the Speaker pro Tem. vacated the Chair and designated Mr. Gnau as Speaker pro Tem.

Thereupon the Speaker pro Tem. announced "Shall the decision of the Chair be sustained?"

The vote on the question being taken thereon, resulted as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
G. M. Ballard
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
V. O. Chandler
Roscoe Claxon
George S. Clay
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
C. L. Hammons
W. L. Hampton, Jr.
Price Holbrook
Ira W. Hulette
J. F. Ladd
M. T. McCarthy
T. B. McConnell
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. E. Mull
Tyler Munford
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
L. K. Rice
Wade H. Riley
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
Chester D. Silvers
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
Henry Ward

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Those who voted in the negative were—

H. T. Baker
W. T. Baker
Reuben J. Boling
Dr. R. A. Byers
J. A. Coleman
Roy Conway
Harry Davis
Garland Embry
H. Myer Garner
Eugene Gough
James T. Hamilton
Thomas W. Hines
Clyde S. Howard
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
Elmer McGlothen
John Marshall
G. S. Milam
W. H. Miller
John B. Mollett
Rodes K. Myers
J. C. Nickell
Hobart Rayburn
Ray O. Shehan
P. L. Sidebottom
H. C. Steely
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
L. R. Wells
Charles Wylie
—36

Thereupon the Speaker pro Tem. announced that the decision of the Chair was sustained.

The Hon. Joe E. Robinson, Speaker pro Tem., resumed the Chair and called the House to order.

Mr. Gnau moved that the session of today be extended indefinitely.

Said motion was agreed to.

Dr. Shields moved that the House do now recess until one-thirty o'clock P. M.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. Myers and Hunnicut, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
G. M. Ballard
B. F. Bedford
Reuben J. Boling

Douglas Bolling
Ollie J. Bowen
Wallace Brown
V. O. Chandler
Roscoe Claxon
George S. Clay
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Ben Grogan
C. L. Hammons
W. L. Hampton, Jr.
Price Holbrook
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. E. Mull
Tyler Munford
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
Chester D. Silvers
H. C. Steely
Henry Stewart
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
—66

Those who voted in the negative were—

H. T. Baker
W. T. Baker
Jas. C. Carter
J. A. Coleman
Roy Conway
Garland Embry
Eugene Gough
Jas. T. Hamilton
Thomas W. Hines
Clyde S. Howard
J. H. Jones
Leslie Larrimore
Robert E. Lee
Elmer McGlothen
W. H. Miller
John B. Mollett
Rodes K. Myers
Ray O. Shehan
P. L. Sidebottom
Dr. H. S. Swope
R. Van Bever, Jr.
—21

And then the House recessed.

AFTERNOON SESSION

The hour of one-thirty o'clock P. M. having arrived, the Speaker pro Tem. resumed the Chair and called the House to order.

Mr. Gnau moved that the privilege of the floor be extended to Col. M. J. Brennan, Mr. Shackleford Miller and Misses Lennie McLaughlin and Maja Eudaley.

Said motion was agreed to.

Dr. Shields raised the point of order that the consideration of the Orders of the Day was now in order.

The Speaker pro Tem. ruled that the point of order was well taken.

Thereupon the House took up for consideration, from the Orders of the Day, a bill entitled:

H. B. 16. An Act to repeal, amend and re-enact chapter one hundred and eleven of the Acts of the General Assembly of 1924, as amended by chapter one hundred and seventy-six of the Acts of the General Assembly of 1926, now codified as Carroll's Kentucky Statutes, 1930 Edition, Sections 4281a-1 to 4281a-11, inclusive.

With Committee amendments thereto.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Chapter one hundred and eleven of the Acts of the General Assembly of 1924, as amended by chapter one hundred and seventy-six of the Acts of the General Assembly of 1926, now codified as Carroll's Kentucky Statutes, 1930 Edition, Sections 4281a-1 to 4281a-11, inclusive, is hereby repealed, amended, and re-enacted, so that as re-enacted it shall read as follows:

§ 1. (1) All property within the jurisdiction of the

State, real or personal, and any interest therein, belonging to inhabitants of the State, and all tangible personal property wherever situated belonging to inhabitants of the State not having acquired a situs for purposes of taxation outside of the State, and all intangible property of whatsoever nature belonging to persons domiciled in the State, and all intangible property of whatsoever nature having acquired a business situs in this State and belonging to non-residents hereof, all real property or interest therein within the State and all tangible personal property having acquired a situs in Kentucky and not taxable elsewhere belonging to persons who are not inhabitants of the State, which shall pass by will, or by the laws regulating interstate succession, or by deed, grant, bargain, sale or gift, made in contemplation of death, or made or intended to take effect in possession or enjoyment at or after the death of the grantor or donor, absolutely or in trust to any person or persons or to any body politic or corporate, in trust or otherwise, or by reason whereof any person or body politic or corporate shall become beneficially entitled in possession or expectancy, to any property, or to the income thereof, shall be and is subject to a tax for the uses of the Commonwealth specifically prescribed in this Act, upon the fair cash value as of the date of the death of the grantor or donor of such property in excess of the exemptions hereinafter granted and at the rates hereinafter prescribed.

Such tax shall be imposed when any such person or corporation becomes beneficially entitled, in possession or expectancy, to any property or the income thereof, by any such transfer.

(2) Every transfer made within three years prior to the death of the grantor, vendor, or donor of a material part of his estate, or in the nature of a final disposition or distribution thereof, and without an adequate valuable consideration, shall be construed *prima facie* to have been made in contemplation of death within the meaning of this section. And in

the event a transfer was made more than three years prior to the death of the decedent it shall be a question of fact to be determined by the proper tribunal whether such transfer was made in contemplation of death.

(3) Whenever any person shall exercise a power of appointment derived from any disposition of property made, whether before or after the passage of this Act, such appointment when made shall be deemed a transfer taxable under the provisions of this Act in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and has been bequeathed or devised by such donee by will; and whenever any person possessing such a power of appointment so derived shall omit or fail to exercise the same in whole or in part, within the time provided therefor, a transfer taxable under the provisions of this Act shall be deemed to take place to the person or persons receiving such property as a result of such omission or failure to the same extent that such property would have been subject to taxation if it had passed under the will of the donee of such power. Provided that in the case of such power of appointment, the transfer shall be deemed to take place, for the purpose of taxation, at the time of the death of the donor and the assessment be made at that time against the life interest of the donee and the remainder against the corpus.

(4) Whenever any property, real or personal, is held in joint names of two or more persons, or as tenants by the entirety, or is deposited in banks or other institutions or depositories in the joint names of two or more persons and payable to either or the survivor, upon the death of one of such persons the right of the surviving tenant by the entirety, joint tenant or joint tenants, to the immediate ownership or possession and enjoyment of such property shall be deemed a transfer of one-half or other proper fraction thereof taxable under the provisions of this Act in the same manner as though

this part of the property to which such transfer relates belonged to the tenants by the entirety, joint tenants or joint depositors as tenants in common, and had been bequeathed or devised to the surviving tenant by the entirety, joint tenant or joint tenants, by such deceased tenants by the entirety, joint tenant or joint depositor, by will.

(5) In the event it shall appear, either from the will of the decedent or from extrinsic evidence that an obligation of a contractual nature exists in favor of any person, payable at or after death of the decedent, said sum so payable shall be treated for the purpose of this Act as a taxable transfer, unless it shall affirmatively appear by competent evidence that a consideration substantially equivalent in value to the amount so due under said contract was paid or furnished by or for the other party thereto during the life of the decedent. It is further provided that the proceeds payable under any life insurance policy on the death of the assured to a designated individual other than the assured or his estate shall be taxable as hereinafter provided in the case of legacies and distributable shares.

(6) The terms of this statute shall apply to any property or interest therein, of which the decedent has made a transfer by trust or otherwise, in contemplation of or intended to take effect in possession or enjoyment at or after death, including a transfer under which the transferor has retained for his life or any period not ending before his death, (a) the possession or enjoyment of, or the income from the property; or (b) the power to designate the persons who shall possess the property or the income therefrom except in the case of a *bona fide* sale for an adequate and full consideration in money or money's worth; or (c) it shall further apply to any property conveyed in trust over which the settlor has a power of revocation exercisable by will.

§ 2. (1) All transfers to educational, religious or other institutions, societies, or associations, whose sole object and purpose are to carry on charitable, educational, or religious work within the State, all transfers for or upon trust for any charitable purpose in this State and all transfers to cities and towns or public institutions in this State for public purposes, shall be exempt from the tax imposed by this Act. But no such corporation or association shall be entitled to such exemption if any officer, member, shareholder, or employee thereof shall receive or may be lawfully entitled to receive any pecuniary profit from the operations thereof, except reasonable compensation for services in effecting one or more of such purposes or as proper beneficiaries of its strictly charitable purpose; or if the organization thereof, for any such avowed purpose, be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation or association, or for any of its members or employees, or if it be not in good faith organized or conducted exclusively for one or more of such purposes.

(2) The tax upon transfers of property as above defined shall be at the following rates:

Class A. In case the transfer shall be to or for the benefit of a surviving spouse, child by blood, step-child, adopted child (if adoption shall have occurred during infancy), if the issue of a deceased child, the tax shall be:

On its value not exceeding $10,000	2%
On its value exceeding $10,000, but not exceeding $20,000	3%
On its value exceeding $20,000, but not exceeding $30,000	4%
On its value exceeding $30,000, but not exceeding $45,000	5%
On its value exceeding $45,000, but not exceeding $60,000	6%
On its value exceeding $60,000, but not exceeding $100,000	7%
On its value exceeding $100,000, but not exceeding $200,000	8%
On its value exceeding $200,000, but not exceeding $400,000	9%

On its value exceeding $400,000, but not exceeding $600,000	10%
On its value exceeding $600,000, but not exceeding $800,000	11%
On its value exceeding $800,000, but not exceeding $1,000,000	12%
On its value exceeding $1,000,000, but not exceeding $2,000,000	14%
On its value exceeding $2,000,000	16%

Class B. In the case the transfer shall be to, or for the benefit of a parent, brother, sister, brother or sister of the half blood, daughter-in-law, son-in-law, grandchild being the issue of a living child, the tax shall be:

On its value not exceeding $10,000	4%
On its value exceeding $10,000, but not exceeding $20,000	5%
On its value exceeding $20,000, but not exceeding $30,000	6%
On its value exceeding $30,000, but not exceeding $45,000	8%
On its value exceeding $45,000, but not exceeding $60,000	10%
On its value exceeding $60,000, but not exceeding $100,000	12%
On its value exceeding $100,000, but not exceeding $200,000	14%
On its value exceeding $200,000	16%

Class C. In case the transfer shall be to, or for the benefit of, any person or corporation not exempted by Section 2, subsection (1), or included in either of the foregoing classes, the tax shall be:

On its value not exceeding $10,000	6%
On its value exceeding $10,000, but not exceeding $20,000	8%
On its value exceeding $20,000, but not exceeding $30,000	10%
On its value exceeding $30,000, but not exceeding $45,000	12%
On its value exceeding $45,000, but not exceeding $60,000	14%
On its value exceeding $60,000	16%

(3) There shall be free from any tax hereunder the following inheritable interests:

Wife or infant son or daughter, $10,000; provided, that if the transfer to a wife exceeds $30,000, the exemption shall be decreased by subtracting from $10,000 the amount by which the distributable share exceeds $30,000, so that a distributable share greater than $40,000 shall receive no exemption.

All other persons of Class A, $5,000 provided that if the transfer to any other person of Class A exceeds $15,000 the exemption shall be decreased by subtracting from $5,000 the amount by which the distributive share exceeds $15,000 so that a distributable share greater than $20,000 shall receive no exemption.

If the decedent be not a resident of the State of Kentucky the exemption shall be the same proportion of the allowable exemption in the case of residents that the property taxable by Kentucky bears to the whole property transferred by the decedent.

In calculating the tax upon each bequest the above exemptions are in each case to be taken out of the first $10,000 inherited and the tax on the remainder, if any, of the first $10,000 shall be computed at the rates provided above.

(4) Administrators, executors, and trustees and all beneficiaries of such taxable transfers shall be liable for such taxes, with interest, as hereinafter provided, until the same have been paid. Provided, however, that in no case shall such administrator, executor, or trustee be liable for a greater sum than actually passes through his administration.

(5) In calculating the value of the distributive shares the following deductions and no others shall be allowed:

(a) Debts of the decedent, except debts secured by property not subject to the tax jurisdiction of Kentucky;

(b) Taxes accrued and unpaid, except those on property not subject to the tax jurisdiction of Kentucky;

(c) Death duties paid to foreign countries;

(d) Federal estate taxes—in the proportion which the property assessed in this State bears to the total taxable property of the estate. All assessments used in calculation to be those agreed to by the Department of Revenue;

(e) Drainage, street or other special assessments due and unpaid which are a lien on said property;

(f) Funeral and burial expenses not exceeding $600.00 and amount actually expended for monuments not exceeding $300.00;

(g) Commission of executors and administrators actually allowed and paid;

(h) Cost of administration including reasonable attorney's fees;

(i) A deduction shall be allowed to persons of Class A of subsection (2), of Section 2, for all property transferred by decedent of Class A of subsection (2), of Section 2, to any person of that class; provided, the same property had been transferred within two years to such decedent and a tax paid thereon in this State. This deduction shall not exceed the appraised value on which such tax was paid; provided, however, such property previously taxed can be identified as having been received by the decedent from such prior decedent by gift, bequest, devise, or inheritance, or can be identified as having been acquired in exchange for property so received. Provided, further, that this deduction shall not apply in favor of one who becomes a member of Class A by marriage contracted within said period of two years.

(6) In the case of estates in expectancy which are contingent or defeasible a tax shall be levied at the highest rate which on the happening of any of the contingencies or conditions named in the will would be possible under the provisions of this act. Moneys so collected shall be distributed as are other inheritance tax funds.

If the property so taxed shall ultimately vest in possession in persons taxable at a lower rate or in a person or a corporation exempt from taxation by this act upon application by such beneficiary to the Department of Revenue for refund of any excess tax, which application shall be certified by the judge or acting judge of the probate court of the county in which the probate proceedings were had, the Department of Revenue, after investigation, shall certify to the Auditor of Public Accounts the amount of such refund. The said Auditor shall refund such excess in the same manner as provided in Section 6, subsection (4).

(7) Where an estate or interest can be divested by the act or omission of the legatee or devisee it shall be taxed as if there were no possibility of divesting.

(8) The value of every future, or contingent or limited estate, income or interest, for the purpose of this act shall be determined by the rule, methods and standards of mortality and of value prescribed by the appropriate United States life mortality tables for ascertaining the value of life estates, annuities and remainder interests, save that the rate of interest to be assessed in computing the present value of all future interest and contingencies shall be four per centum (4%) per annum.

(9) The division of insurance, without a fee, on the application of the Department of Revenue, shall determine the value of any future or contingent estate, income or interest therein, limited, contingent, dependent or determinable upon the life or lives of persons in being upon the facts contained in any such application or other facts to him submitted by said department and certify the same in duplicate to said department, and his certificate thereof shall be competent evidence that the method of computation therein is correct. When an annuity or a life estate is terminated by the death of the annuitant or life tenant, and the tax upon such interest has not been fixed the determined, the value of said

interest for the purpose of taxation under this Act shall be that amount of the annuity or income actually paid or payable to the annuitant or life tenant during the period for which such annuitant or life tenant was entitled to annuity or was in possession of the life estate. The tax on such annuities shall be payable out of the corpus of the estate unless otherwise provided under the terms of the will.

(10) If a testator bequeaths or devises property to one or more executors or trustees in lieu of their commissions or allowances, or makes them his legatees to an amount exceeding the commissions or allowances prescribed by law for an executor or trustee, the excess in value of the property so bequeathed or devised above the amount of commissions or allowances prescribed by law in similar cases shall be taxable under this act.

§ 3. (1) In addition to the inheritance tax hereinbefore imposed, an estate tax is hereby levied on all estates equal to the amount by which the credits for state death taxes allowable under the Federal estate tax law exceeds the tax levied under Sections 1 and 2 of this act. Said tax shall be payable at the same time and in the same manner as the inheritance taxes levied by this act.

In the case of resident decedents and non-resident decedents over part of whose estates Kentucky has tax jurisdiction the estate tax shall be computed as follows: (a) The ratio which that part of the estate over which Kentucky has jurisdiction for estate tax purposes bears to the total estate wherever located shall be ascertained; (b) the total maximum offset for state succession taxes allowed under the provisions of the Federal estate tax law shall be multiplied by the ascertained ratio to determine the offset allocable to this State; (c) the estate tax levied by this section shall equal the amount, if any, by which the offset allocable to this State shall exceed the inheritance taxes levied under Sections 1 and 2 of this act.

(2) The intent and purpose of this section is to take full advantage of the credit allowed for state succession duties by the Federal estate tax law by imposing an additional tax, and the same shall be liberally construed to effect this purpose.

(3) All administrative provisions of this act to the extent that they are applicable shall be available for the enforcement of this section.

(4) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this section. The aggrieved taxpayer shall pay under protest the tax as and when required and may at any time within two years from the date of such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in an action at law in any court, State or Federal, otherwise having jurisdiction of the parties and subject matter, for the recovery of the tax paid with legal interest thereon from the date of payment. If it is finally determined that said tax or any part thereof was wrongfully collected, for any reason, it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected together with legal interest thereon. The Treasurer shall pay the same at once out of the general expenditure fund in preference to other warrants or claims against the Commonwealth. A separate suit need not be filed for each individual payment made by any taxpayer, but a recovery may be had in one suit for as many payments as may have been made.

All shares of stock in corporations organized under the laws of this state belonging to persons whose domicile is in a country foreign to the United States or its possessions shall, on the death of the owner, be subject to a tax of five per centum (5%) of its actual value upon its transfer, payment, or delivery to the executor, administrator, or trustee of the estate of said deceased.

§ 5. (1) The Department of Revenue shall have full supervision of the enforcement and collection of all taxes due under the provisions of this act, including the power to institute suit in this State or other states, and shall make all rules and regulations necessary for the administration thereof. It may employ such attorneys and other persons as may be necessary for the carrying out of its full intent and purpose. The Department of Revenue shall direct its representatives to make an investigation in any case where it deems fuller information necessary, and may cause administrators, executors, or beneficiaries to file all statements required by this act with the clerks of the proper courts and with the department; examine all statements filed by such administrators, executors, and beneficiaries, and require such administrators, executors, or beneficiaries to furnish any additional information that may be deemed necessary to determine the amount of tax that should be paid by such estate. Such executor or administrator shall in every case, when he files his inventory in the county court, file a duplicate thereof with the Department of Revenue. The county court upon the request of the personal representative or any interested party, shall appoint some competent person as appraiser, whose duty it shall be to give notice to all persons having an interest therein and to such persons as the court may by order direct and shall appraise the property belonging to said estate, and his report shall be filed with the county court and a copy thereof with the State Tax Commission. The said appraiser appointed by the county court shall be paid for his services out of the funds of the estate on the certification of the court and the amount to be fixed by the judge of the county court, and the total compensation in no event to exceed one-tenth of one per cent of the total appraised value of the estate for inheritance tax purposes; provided, there shall be a minimum allowance of five dollars ($5.00), together with his actual and necessary traveling expenses. After investigation, the Department of Revenue shall fix the value of the estate for inheritance taxes and advise the representative of the estate of such valuation. The administrator, executor, or any interested party, if not satisfied with such appraisement may appeal within thirty days from the decision of the Department of Revenue to the Circuit Court of Franklin County and appeals may be taken by the personal representative of the estate or any interested party or the Department of Revenue from the judgment of the Circuit Court of Franklin County to the Court of Appeals in the time and manner as now provided by law in other civil actions.

(2) The clerk of the county court on the first of each month, without fee, shall send to the Department of Revenue on forms furnished by said department a list of wills probated and administrators appointed together with the name of the decedent and the inventory value of the estate when such inventory is filed, and on request from the Department of Revenue shall furnish such other information as may be of record in his office concerning any such estate. But for any copies of wills or inventories the clerk shall receive his regular fee.

(3) If real estate of a decedent be passed to another person so as to become subject to said tax, his executor, administrator or trustee shall inform the Department of Revenue thereof within six months after his appointment, or if the fact is not known to him within that time then within one month after the fact becomes known to him.

(4) All taxes imposed by this act shall be assessed by the Department of Revenue on the full and fair cash value of the property transferred at the rates hereinbefore set out, to be paid to the said department and immediately covered into the Treasury to the credit of the general expenditure

fund. All executors, administrators, trustees, and beneficiaries shall be personally liable for any and all such taxes until the same are paid. Notice of the amount of said taxes shall be mailed to the executor, administrator, or trustee or other person liable therefor by said department; and, upon request, to any other person by whom said taxes are payable. But failure to receive said notice shall not excuse the nonpayment of or invalidate said taxes. Said taxes shall be and remain a lien upon the property transferred and upon all property acquired by the executor, administrator, or trustee, until the said taxes are paid or a bond given as herein provided; but said lien shall not affect any tangible or intangible personal property after it has passed to a *bona fide* purchaser for value; provided, however, that nothing herein contained shall give the owner of any securities the right to have the same transferred to him by the corporation, association, company, or trust issuing the same, until a permit required by this act shall have been filed as herein provided. The lien charged as aforesaid upon any real estate may be discharged by the payment of all taxes due and to become due. The heir, devisee, or other donee shall be personally liable for the tax on such real estate, as well as the executor, administrator, or trustee; and if the executor, administrator, or trustee pays such a tax, he shall, unless the same is made an expense of administration by the will or other instrument, have the right to recover such tax or any other tax from the heir, devisee, or other donee of such real estate.

(5) The lien herein retained to secure transfer taxes may be enforced as other liens upon similar properties are enforced.

(6) The Department of Revenue shall keep a record of all returns made by appraisers, the cash value of annuities, life estates and term of years, and the amount of all taxes assessed by them; and, in addition, the said Commission may enter or record all other information and data which they

may deem desirable or proper. All returns made by appraisers and all data otherwise gathered by the Department of Revenue shall be considered as privileged communications and the same shall not be exhibited for inspection to any person or persons other than the executor or the administrator or a beneficiary entitled under the terms of the last will and testament or the intestate laws to share in the estate, or the duly authorized attorney of said executor, administrator or beneficiary. Nothing in this section shall be construed as prohibiting the use of such returns made by appraisers and all data otherwise gathered by the department in legal proceedings involving the assessments, collection, or abatement of taxes provided for by the various tax statutes prevailing in this State.

§ 6. Actions may be brought against the State by any interested person for the purpose of quieting the title to any property against the lien or claim of lien of any tax or taxes under this act, or for the purpose of having it determined that any property is not subject to any lien for taxes nor chargeable with any tax under this act. No such action shall be maintained where any proceedings are pending in any court in this State wherein the taxability of such transfer and the liability therefor and the amount thereof may be determined. All parties interested in said transfer and in the taxability thereof shall be made parties thereto and any interested person who refuses to join as plaintiff therein may be made a defendant. Summons for the State in said action shall be served upon the Commissioner of Revenue. Actions to quiet title shall be brought in a court of competent jurisdiction.

§ 7. (1) The Department of Revenue shall prepare and furnish, upon applications, blank forms covering such information as may be necessary to determine the amount of inheritance tax due the State on the transfer of all property subject to tax; it shall determine the value of such property and have full authority to do all things necessary to secure full and final settlement of all such inheritance taxes due, or to become due, to the State Treasury.

(2) All taxes imposed by this act, unless otherwise herein provided for, shall be due and payable at the death of the decedent, and if the same are paid within nine months a discount of five per centum (5%) shall be allowed, and if the same are paid within eighteen months no interest shall be charged and collected thereon, but if not so paid within eighteen months, a penalty at the rate of ten per centum (10%) per annum shall be charged and collected from the time said taxes accrued. And in all cases where the executors, administrators, or trustees do not pay such taxes within twelve months from the death of the decedent, they shall be required to give bond in the form and to the effect prescribed by the Department of Revenue for the payment of said taxes, together with interest.

(3) The penalty of ten per centum (10%) per annum imposed for the non-payment of said tax shall not be charged in cases where, by reason of claims made upon the estate, necessary litigation, or other unavoidable cause of delay, the estate of any decedent, or a part thereof, cannot be settled at the end of twelve months from the death of the decedent; and in such case only six per centum (6%) per annum shall be charged upon the said tax from the expiration of said eighteen months until the cause of such delay is removed.

(4) The personal representative of any estate from which any such tax is or may be due may make an estimate agreeable to the Department of Revenue and pay the same to the said department, which shall receipt therefor, at any time before the same is determined, and shall thereupon be entitled to any discount and be relieved of any interest and penalty and shall have permits issued for the transfer of securities or real estate upon the amount so paid in the same manner as if the tax were then determined. Any excess so paid shall be refunded to the person so paying or entitled

thereto by such Auditor out of the general expenditure fund, upon filing with such Auditor a copy of the order fixing such tax, and attached thereto a certificate stating the amount of refund due.

(5) In the absence of administration in this State upon the estate of a non-resident, the Department of Revenue, at the request of an executor or administrator duly appointed and qualified in the state of the decedent's domicile, or of a grantee under a conveyance made during the grantor's lifetime, and upon satisfactory evidence furnished him by such executor, administrator, or grantee, or otherwise, may determine whether or not any property of said decedent within this State is subject to the provisions of this act, and if so, may determine the value of such tax and adjust the same with such executor, administrator, or grantee, and for that purpose may appoint an appraiser to appraise said property and the expense of such appraisal shall be charged upon such property in addition to the tax. The department's certificate as to the amount of such tax and its receipt for the amount therein certified may be filed in the county court in the county where the property is located and when so filed shall be evidence of the payment of the tax, to the extent of such certification. Whenever in such a case the tax is not adjusted within six months after the death of the decedent, the proper county court, upon application of the Department of Revenue, shall appoint an administrator in this State.

§ 8. (1) No safe deposit company, trust company, corporation, bank or other institution, person or persons engaged in the business of renting safe deposit boxes or other receptacles of similar character, shall rent any such box or receptacle without first requiring all persons given access to such thereto to agree in writing to notify such safe depository, bailee or lessor, from which such box or receptacle is rented, of the death of any person having the right of access thereto, before seeking access to such box or receptacle after the death of such person; and all persons having the right of access to any such safe deposit box or receptacle, upon the death of any other person having access thereto, before seeking access to such box or receptacle, must notify such safe depository, bailee, or lessor, from whom such box or receptacle is rented, of the death of such person; and it shall be unlawful for any safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control, custody or partial custody of any safe deposit box or similar receptacle, to permit access thereto by anyone after the death of any person who at the time of his death had the right or privilege of access thereto either as principal, deputy, agent or co-tenant without the consent of the Department of Revenue or a person by it authorized to issue such consent. No safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control or custody or under partial control or patial custody securities, deposits, assets or property belonging to or standing in the name of a decedent who was a resident or non-resident, or belonging to or standing in the joint name of such a decedent and one or more persons, including the shares of the capital stock of, or other interest in, the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer herein provided, shall deliver or transfer the same to executors, administrators, or legal representatives, agents, deputies, attorneys, trustees, legatees, heirs, successors in interest of said decedent or to any other person or persons or to the survivor or survivors when held in the joint names of the decedent and one or more persons, or upon their order or request, without retaining a sufficient portion or amount thereof to pay any tax and interest which may thereafter be assessed thereon under this act, and unless notice of the time and place of such delivery or transfer be served upon the Department of Revenue at least thirty days prior to said delivery or transfer; provided, that said department or person by it in writing authorized to do so, may consent in writing to said delivery or transfer, and such consent shall relieve said safe deposit company, trust company, corporation, bank or other institution, person or persons from the obligations hereunder to give such notice or to retain any portion of said securities, deposits or other assets in their lawful possession or control.

When intangible personal property belonging to a decedent, non-resident, shall be found to be physically located in Kentucky, it shall be the duty of the Department of Revenue to so inform the State official collecting death tax in the State of domicile of the said decedent, provided that said State furnishes like information to the Kentucky Department of Revenue in a reciprocal manner.

And it shall be lawful for the Department of Revenue personally or by representatives, to examine said securities, deposits or assets at the time of said delivery or otherwise.

(2) Failure to comply with the provisions of this section shall render such safe deposit company, trust company, corporation, bank or other institution, person or persons, liable to a penalty of not more than twenty thousand dollars ($20,000) and in addition thereto said safe deposit company, trust company, corporation, bank or other institution, person or persons, shall be liable for the amount of taxes, interest and penalties due under this act on said securities, deposits or other assets above mentioned, and said penalties and liabilities of said safe deposit company, corporation, bank or other institution, person or persons for the violation of this section may be enforced in an action brought by the Department of Revenue in any court of competent jurisdiction.

(3) An executor, administrator, or trustee, holding property subject to said tax, shall not deliver property or a specific legacy subject to said tax until he has collected the tax thereon. When a specific bequest of personal property

other than money is subject to a tax under the provisions of this act, and the legatee neglects or refuses to pay the tax upon demand, the executor or trustee may upon such notice as the court having jurisdiction of the settlement of the estate may direct be authorized to sell such property, or, if the same can be divided, such portion thereof as may be necessary, and shall deduct the tax from the proceeds of such sale, and shall account to the legatee for the balance, if any, of such proceeds, in lieu of the property. An executor or administrator shall collect taxes due upon land which is subject to tax under the provisions hereof from the heirs or devisees entitled thereto, and he may be authorized to sell said land if they refuse or neglect to pay said tax. When a conveyance made by a decedent in his lifetime is subject to said tax, and the property thus conveyed, being personal property, is without the State, or is removed from the State before the tax is paid, such tax shall become a lien upon all property of the decedent; and the executor or administrator shall collect taxes due on account of such conveyance and may be authorized to sell any property subject to the lien of such tax, for the payment thereof, as in the other cases.

(4) If a legacy subject to said tax is charged upon or payable out of real estate, the heir or devisee, before paying it, shall deduct said tax therefrom and pay it to the executor, administrator or trustee. The payment of this tax shall be enforced in the same manner as the payment of a tax on a direct legacy itself could be enforced.

(5) When any interest in property less than an estate in fee is devised or bequeathed to one or more beneficiaries with remainder to others and the interest of one or more beneficiaries is subject to said tax, the executor shall deduct the tax upon such taxable interests from the whole property thus devised or bequeathed and whenever property other than money is so devised or bequeathed he may, unless the taxes upon all the taxable interests are paid when due by

the beneficiaries, be authorized to sell such property or such portion thereof as may be necessary, as provided in subsection (3) of this section, and having deducted the unpaid taxes on such taxable interests from the proceeds of such sale, he shall account for the balance in lieu of the property sold as in other cases.

(6) The official or body charged with the administration of the death tax laws of the domiciliary state shall be deemed a creditor of the decedent and shall be entitled to sue in the courts of this State and to enforce such claim for taxes, penalties and/or interest due to such state or political subdivision. The provisions of this subdivision shall apply to the estate of the decedent not domiciled in this State only if the laws of his domicile contain a provision, of any nature, however expressed, whereby this State is given reasonable assurance of the collection of its death taxes, interest and penalties from the estates of decedents dying domiciled in this State.

§ 9. In case of a false or fraudulent return, or of the omission to fairly return, or in case of the failure to include in a return any property of a decedent subject to death tax under this act, whether or not omission is with intent to evade the tax, the death tax due by reason thereof may at any time notwithstanding any provision of limitation elsewhere made and provided be assessed and collected by the Department of Revenue by the methods set out in this act, including action in a court of competent jurisdiction.

§ 10. Every person who willfully and knowingly subscribes to or makes any false statement of facts, or knowingly subscribes to or exhibits any false paper or false report with intent to deceive any appraiser pursuant to the provisions of this act, shall be guilty of a misdemeanor and punished by a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) or imprisoned not exceeding twelve months in the county jail, or by both such fine and jail sentence.

Any person charged with any duty under the terms of this act who fails or refuses to perform the same shall be guilty of a misdemeanor, and shall be fined not less than five dollars ($5.00) nor more than one hundred dollars ($100.00).

§ 11. The provisions of this act are severable. If any provision, section, or paragraph thereof, or if the application of any provision, section, or paragraph to any transfer affected by the operation of the act, should be held unconstitutional or invalid, such decision regarding the provision, section, paragraph, or application, shall not affect or impair the remainder of the act, it being hereby declared the legislative intent to tax separately the transfer of each class of property contemplated by any of its provisions.

§ 12. All tax collected under this act shall be covered through the Department of Finance into the State Treasury and credited to the general expenditure fund.

§ 13. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

§ 14. *Emergency.* Whereas, the present state revenue does not meet the immediate needs for the maintenance of the State government, an emergency is declared to exist and this act shall become a law and be effective upon its passage and approval by the Governor.

Said amendments as offered by the Committee are as follows, viz.:

1. Amend H. B. 16 in Section 2, subsection 9, line 11 in the original bill, by striking out the word "the" after the word "fixed" and before the word "determined" and substituting therefor the word "and".

2. Amend H. B. 16 in Section 5, subsection 6, line 4 of the original bill, by striking out the word "commission" after the word "said" and before the word "may" and substituting therefor the word "department".

3. Amend H. B. 16 in Section 7, subsection 5, line 3 of the original bill, by striking out the word ''of'' after the word ''executor'' and before the word ''administrator'' and substituting therefor the word ''or''.

Said amendments were each and severally agreed to.

Mr. Tapp offered the following amendments to said bill, viz.:

Amend H. B. 16 by inserting after the word ''Act'' and before the word ''whether'' line 3, Section 9, page 21 of the printed bill, the words ''or under any prior Act''.

Amend H. B. 16 by adding the symbol for ''Section'' and the numeral ''4'' before the word ''all'' at the beginning of line 42, page 11 of the printed bill.

Said amendments were each agreed to.

Mr. Hammons offered the following amendment to said bill, viz.:

Amend H. B. 16, page 7, Section 3 under exemptions, line 76 after the word ''above'' and the period, the following:

''Providing that all life insurance policies or contracts payable to individuals are exempted from the provisions of this act.''

Mr. Gnau moved that the House do now resolve itself into a Committee of the Whole House for the purpose of hearing Dr. Martin explain certain provisions of said bill.

Said motion was agreed to.

Thereupon the Speaker pro Tem. vacated the Chair and designated Dr. Shields as Chairman of the Committee of the Whole House.

After a time, the Speaker pro Tem. having resumed the Chair, Dr. Shields, Chairman of the Committee of the Whole House, reported progress.

Mr. Silvers offered the following amendment to the amendment as offered by Mr. Hammons, viz.:

Amend the amendment offered by Mr. Hammons by adding after the word ''exempted'' the following: ''not to exceed $30,000 in the aggregate''.

Said amendment to the amendment was agreed to.

Mr. Hammons offered the following amendment to the amendment as offered by Mr. Hammons, viz.:

Amend the amendment offered by Mr. Hammons by striking out the word ''individuals'' and substituting therefor the words ''a specified beneficiary''.

Said amendment to the amendment was agreed to.

Mr. Hammons moved the previous question on said amendment.

Thereupon the Speaker pro Tem. announced ''Shall the Main Question be now put?''

Which was decided in the affirmative.

Said amendment as offered by Mr. Hammons, and as amended, was then disagreed to.

The yeas and nays being required thereon by Messrs. Gnau and Shields, were as follows, viz.:

Those who voted in the affirmative were—

H. T. Baker
W. T. Baker
G. M. Ballard
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
J. A. Coleman
Roy Conway
Harry Davis
Garland Embry
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Eugene Gough
Jas. T. Hamilton
C. L. Hammons
Thomas W. Hines
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson
J. H. Jones
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
D. T. Matlack
G. S. Milam
John B. Mollett
Tyler Munford
Russell O'Neill
Hobart Rayburn
John C. Robinson
Ray O. Shehan
Chester D. Silvers
Dr. H. S. Swope
R. Van Bever, Jr.
Charles Wylie
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Those who voted in the negative were—

F. T. Allen
Henry H. Allen
B. F. Bedford
George S. Clay
Herbert Cook
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Fred A. Gnau
Ben Grogan
W. L. Hampton, Jr.
Price Holbrook
John M. Hunnicut
O. C. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
Duke Mayfield
W. H. Miller
W. E. Mull
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Wade H. Riley
Joe E. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
H. C. Steely
Henry Stewart
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
—48

Mr. Tapp offered the following amendment to said bill, viz.:

Amend H. B. 16 by inserting as a separate paragraph after line 44 on page 18 of the printed bill the following language:

"Notwithstanding any of the provisions of this act any life insurance company may pay the proceeds of any policy upon the life of a decedent to the person or persons entitled thereto as soon as it shall have mailed to the Department of Revenue a notice, in such form as said department may prescribe, setting forth the fact of such payment. The Department of Revenue may by regulation dispense with the requirement for such notice as to payment of policy proceeds amounting to one thousand ($1,000) dollars or less."

Said amendment was agreed to.

Mr. Howard offered the following amendments to said bill, viz.:

Amend H. B. 16, page 14, line 72, by striking out the word "ben" and inserting in lieu the word "been".

Amend H. B. 16, page 8, line 97, by striking out the figures "$300.00" and inserting in lieu the figures "$1,000".

Said amendments were each agreed to.

Mr. Kirkman offered the following amendment to said bill, viz.:

Amend H. B. 16 on page 6, line 40, by striking out the word "not" and substituting "$5,000" for "$10,000" so that said line 40 will read "on its value exceeding "$5,000" "4%".

Without objection, said amendment was withdrawn.

Mr. Hammons moved the Previous Question.

Thereupon the Speaker pro Tem. announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald

W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Wade H. Riley
Joe E. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
—86

Those who voted in the negative were—

Reuben J. Boling
Jas. C. Carter
C. L. Hammons
J. H. Jones
Robert E. Lee
Hobart Rayburn
Dr. H. S. Swope
—7

Resolved that the title thereof be as aforesaid.

Mr. Tapp moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

The Enrolling Clerk of this House delivered the original and enrolled copies of a bill entitled:

H. B. 1. An Act relating to revenue and taxation on the sale and distribution of alcoholic beverages and declaring an emergency to exist.

Duly signed by the President pro Tem. of the Senate, into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bill to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

Mr. Hunnicut moved that the rules of this House be suspended for the purpose of introducing bills.

Said motion was agreed to.

Thereupon the following bills were introduced, viz.:

By Mr. Hammons:

H. B. 24. An Act concerning Revenue and Taxation and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That any person, firm or corporation operating or permitting to be operated in their, his or its place of business, any machine or device which is operated or played by depositing a coin or slug in a slot and operating a lever, handle, crank or other device, causing wheels or discs to revolve, spin, turn or move and which dispenses coins, slugs or trade checks, or by certain combinations the owner or lessee of said device gives the person playing or operating such device or machine any prize, cash or other emolument of gain, shall pay to the County Clerk of the County in which said machines or devices are operated, the following license: Machine having a nickle-in-the-slot device, one hundred dollars ($100.00); machines having a dime-in-the-slot device, one hundred fifty dollars ($150.00); machines having a quarter-in-the-slot device, two hundred dollars ($200.00); machines having a slot device for coins over a quarter, three hundred dollars ($300.00). Provided this schedule shall not apply to slot devices on lock on doors, meters, electric fans, telephones, postage stamp vending machines, drinking cup, electricity or gas vending machines or meters. The license herein required shall be for the operation of the particular machine for which issued and shall be attached to or securely pasted in a conspicuous place on such machine. A licensed machine may be transferred to any other place in the same county. Provided such transfer of location is filed with the County Clerk and posted by him on his license stub. If any machine is found in or at any place of business which has not been licensed, the owner, proprietor or operator of such establishment, store or place of business in which said machine is located shall be liable for said license. Provided this schedule shall not be construed as legalizing the possession, operation or rental of such machines or devices not already legalized by the State of Kentucky.

§ 2. Any person, firm or corporation operating by lease, or who receives a profit by reason of the operation of any telephone booth in which coins are deposited for local or long distance connections, shall pay to the clerk of the county in which said booth, machine or device is located a fee of ten dollars ($10.00) per annum for each and every public pay station used for such purposes. The said fee shall be paid by the owner or the lessee of such device or by the person in whose place of business said device is operated.

§ 3. Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State government, an emergency is declared to exist; and this act shall become a law and be effective upon its approval by the Governor.

By same:

H. B. 25. An Act concerning revenue and taxation and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That each person, firm or corporation, operating for profit a gasoline filling station or pump in cities or towns or within three miles thereof, shall pay the following privilege tax to the Clerk of the County in which said filling stations are located before engaging in said occupation or business: In cities of one hundred thousand inhabitants and over, where only one pump or filler is used, Forty Dollars ($40.00), and for each additional pump Thirty Dollars ($30.00); in cities or towns of Forty Thousand inhabitants and less than one hundred thousand inhabitants where only one pump or filler is used, Thirty Dollars ($30.00), and for each additional pump Twenty Dollars ($20.00); in cities or towns of Twelve Thousand inhabitants and less than Forty Thousand, Twenty-Five Dollars ($25.00) where only one pump or filler is used and for each additional pump or filler, Fifteen Dollars ($15.00); in cities or towns of Five Thousand inhabitants and less than Twelve Thousand, Twenty Dollars ($20.00) where only one pump or filler is used and for each additional pump, Ten Dollars ($10.00); in incorporated towns of One Thousand inhabitants and less than Five Thousand, where only one pump or filler is used Ten Dollars ($10.00), and for each additional pump or filler Seven and One-Half Dollars ($7.50); in incorporated towns of less than One Thousand inhabitants Five Dollars ($5.00), and for each additional pump or filler Three Dollars ($3.00); in all other places whether incorporated or not Two and One-Half Dollars ($2.50).

§ 2. Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State Government, an emergency is declared to exist; and this Act shall become a law and be effective upon its approval by the Governor.

By Mr. R. J. Boling:

H. B. 26. An Act relating to revenue and taxation; providing a tax upon all persons in this State who are certified to teach in the public schools of this State under the provisions of this Act; and amending Chapter 65, Article Seven, Acts of the General Assembly of Kentucky, Regular Session of the year 1934, and providing for the extension of certificates to all who have been certificated to teach in the public schools of this State for a period of twenty years prior to the adoption of this Act, and providing for a tax of five dollars ($5.00) to be paid by all who are granted certificates under the provisions of this Act, and repealing all laws or parts of laws in conflict with same.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The Division of Certification of the Department of Education of the Commonwealth of Kentucky, is hereby authorized, and, upon application, shall issue, to all persons who have heretofore been certificated as teachers in this State, by the State or County Boards of Education, either or both, for a period of twenty years prior to the adoption of this Act, a certificate entitling any such person to teach in the public schools of this State for and during their natural life.

§ 2. Any person or persons who shall be entitled to an extension of certificate as permitted by this Act shall, upon written application signed by the applicant, together with the dates of the years and places where they have held such certificates, be issued a life certificate as provided herein by the Division of Certification of the Department of Education of the Commonwealth of Kentucky; provided that such application be accompanied by the fee of five dollars ($5.00).

§ 3. All laws or parts of laws in conflict herewith are hereby repealed.

By same:

H. B. 27. An Act relating to revenue and taxation, and providing for the licensing of dogs in the Commonwealth of Kentucky, amending and reenacting Sections 68b-4 and 68b-32, Chapter 5, Carroll's Kentucky Statutes, providing that not less than seven cents for each dog licensed shall be paid to the funds for the protection of livestock industry under the supervision of the Commissioner of Agriculture, and providing for the collection of licenses and enforcement of this Act in the various counties, and repealing all laws in conflict therewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

All licensed taxes hereinafter provided shall be receivable and licensed tags procurable at and during the same time in each calendar year that State and County ad valorem taxes may by law be due and payable therein. Each family shall be entitled to one dog which dog shall be licensed upon application by any member of said family, said application to be made to the Sheriff or deputy sheriff of the county in which said family resides and the Commissioner of Agriculture shall provide the sheriffs of the counties of this State with tags which shall be made of aluminum or other material of like color; the license fee for the first dog for any one family shall be fifteen cents, and for the second dog shall be $2.00, and each additional dog the sum of $1.00, and said tags shall be of any material or color different from that provided herein for the first dog.

On and after July 1, 1936, and on the first day of each month of that year and of each succeeding year the Sheriff shall draw his warrant on the County Treasury of his county in favor of the Commissioner of Agriculture for a sum equal to seven cents for each dog licensed during the preceding month, said amount so received by him shall be used and employed by the Commissioner for the purpose of supervision over the licensing and regulation of dogs and protection of livestock as provided in Section 68b-1, to and including 68b-38a.

All laws or parts of laws in conflict herewith are hereby repealed.

By Mr. Hunnicut:

H. B. 28. An Act relating to revenue and taxation by the levying of license taxes upon the business of selling combinations, French pools, certificate system of wagering, or making handbooks upon horse races at places other than within the enclosures of regular licensed race tracks and providing rates of such license taxes, and providing method of collecting same and providing penalties for the violation thereof; to provide for holding elections to determine the will and sense of the qualified voters in the several counties in relation thereto; to provide for control and regulation; to provide penalties for violation of this Act and repealing all laws in conflict therewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* The word "Person" as used in this Act shall mean any individual, firm, corporation, association, or co-partnership.

The word "Licensee" as used in this Act shall mean any person to whom a license has been granted by the Commonwealth of Kentucky, any county or municipality therein, or agency thereof, or by other competent authority as declared in this Act, to engage in the business of selling combinations, French pools, certificate system of wagering, or making handbooks upon the results of horse races at places other than within the enclosures of regular licensed race tracks.

§ 2. *Administration.* The administration of this Act is vested in the Department of Revenue, which may prescribe forms and promulgate rules and regulations necessary to the granting of licenses, supervision and control, and prescribe such conditions as shall be necessary for the enforcement of this Act.

The Department of Revenue shall have the power to grant licenses and to make investigation and examination of each applicant and each application before granting such licenses and shall have the power to revoke licenses for violation of any rule prescribed by the said department or for violation of any of the provisions of this Act.

§ 3. *Municipalities may impose license taxes and prescribe regulations.* Municipalities shall have the right and power to levy and impose license taxes upon the business of selling combinations, French pools, certificate system of wagering, or making of handbooks upon the result of horse races at places other than within the enclosures of regular licensed race tracks which may be located within the corporate limits of such municipalities, and such municipalities shall have the power to prescribe regulations of such businesses, by ordinance, and shall enforce the provisions of this Act, by police regulation in the same manner as they are now vested by law to enforce any other law of this Commonwealth.

§ 4. *Counties may impose and levy license taxes; adopt and enforce regulations; when.* The several counties of this Commonwealth shall have the power and right to levy and impose license taxes upon the business of selling combinations, French pools, certificate system of wagering, or making of handbooks upon the result of horse races at places other than within the enclosures of regular licensed race tracks which may be located in unincorporated territory within such counties, and the counties shall have the power to grant such licenses, adopt and enforce the rules prescribed by the State Department of Revenue, supervise, control, and regulate such businesses in accordance thereto, and enforce the provisions of this Act, and the said powers shall be vested in the county court to grant licenses, supervise, and control and regulate such businesses as declared by the provisions of this Act, and the license tax rate therefor shall be a sum equal to that of the municipal license tax.

§ 5. *When business may be operated.* Any person to whom a license has been granted for the conduct and operation of the business of selling combinations, French pools, certificate system of wagering, or making of handbooks upon the result of horse races at places other than within the enclosures of regular licensed race tracks shall have the right, subject to the provisions of this Act, to operate and conduct said business every day of the period for which the license has been granted, except Sunday, but only during the hours between eleven o'clock in the morning and seven o'clock in the evening. Provided, however, that when race meetings are being held at regular licensed race tracks within the county in which the licensee operates his or her established place of business and/or when the established place of business of the licensee is located within a radius of twenty-five miles of any such regular licensed track the licensee shall close and cease to operate such business until the termination of such race meeting.

§ 6. *Election in counties before Act is effective; procedure and manner of election.* That before the provisions of this Act shall become effective in any county of this Commonwealth an election or referendum shall be held pursuant to the following prescribed form and manner: Upon petition of one hundred freeholders who also must be qualified voters of the county, in which the election is to be held, the county judge shall make official record of the filing of same, and then cause to be published in a newspaper of general circulation in the county, if one, or if none, then shall post notices in ten conspicuous places within the county that said petition has been filed. The county judge shall thereafter no earlier than thirty days make an order in his order book directing the sheriff or other court officer of said county who may be appointed to hold such election, to open a poll at each and all voting places in the county, city, town, district or precinct on a day certain, to be specified in the original order, not later than thirty days after the entry of the order, for the purpose of taking the sense of the legal voters of such county who are qualified to vote at elections for county officers, upon the question and proposition whether or not the business of selling combinations, French pools, certificate system of wagering, or handbook making upon the results of horse races at places other than within the enclosures of regular licensed race tracks shall be conducted in the county.

§ 7. *Persons eligible for license.* Any person who is a legal resident of this Commonwealth, and who was born within this Commonwealth, and whose name has never been connected with any crime or offense against the criminal laws of the federal government or of the criminal laws of this State, and who can produce attested recommendations from at least ten reputable native residents of the county of his residence as to the character of the person desiring a license, and who can produce bond in a sum equivalent to the amount of the State license tax for the faithful performance of the rules and regulations decreed by the Department of Revenue and the provisions of this Act, shall be eligible for a license to carry on a business as provided in this Act.

§ 8. *Amount of license tax to be collected by State.* Each person granted a license by the Department of Revenue shall be charged and assessed a sum in the amount of five hundred ($500.00) dollars per annum to be paid at the time of the license, the same to be paid by the licensee at the time of the issue of the license to the State Treasurer of the Commonwealth and said moneys when paid to the State Treasurer shall be allocated to and for the general common school fund.

§ 9. *Amount of license tax to be collected by county.* Each person granted a license under the provisions of this Act by any county shall be assessed and charged a sum therefor in the amount of one thousand ($1,000.00) dollars per annum, the same to be paid at the time of the issue of the license by said county, and the same to be paid to the clerk of the county court, but the county shall not have the right or power to collect such sums unless the established place of business be located in unincorporated territory within the county. Such sums collected by any county according to the provisions of this Act, shall be allocated to and for the common school fund of the county.

§ 10. *Amount of license tax to be collected by a municipality.* Each person granted a license by any municipality shall be charged and assessed therefor a sum in the amount of one thousand ($1,000.00) dollars per annum, the same to be paid at the time of the issue of license, and the same to be paid to the treasurer of such municipality, but the municipality shall not have the right or power to collect such sums unless the established place of business of the licensee be located within the corporate limits of such municipalities. Such sums collected by any municipality, according to the provisions of this Act, shall be allocated to the common school fund of such municipalities.

§ 11. *Bond to be required of licensee.* That at the time of the issue of a license to any person he shall execute bond to the Commonwealth, with sureties, worth at the time, jointly and severally, five hundred ($500.00) dollars, to be approved by the Department of Revenue, and filed in the office of the

Director of the Department of Revenue, conditioned for the faithful performance of the rules and regulations decreed by the Department of Revenue and the provisions of this Act.

§ 12. *Forfeiture of bond.* If the holder of any license shall violate any of the rules or regulations of the Department of Revenue or any of the provisions of this Act, such shall be considered sufficient cause to revoke such license, and immediately thereafter the bond of the licensee shall be forfeited and the amount thereof shall be recovered by the Commonwealth by action at civil law in the manner provided by statute.

§ 13. *State, county, or municipality may revoke license.* The Department of Revenue shall be vested with the power to revoke any license issued by that department and shall force the surrender of all rights and privileges contained in the license, upon the conviction of the licensee or patron thereof by any court of competent jurisdiction for riotous or disorderly conduct upon the premises of the licensee, or any drunkenness of any person thereon, or any offense against the laws of this Commonwealth or the ordinances of a city, or for violation of any of the rules or regulations decreed by the Department of Revenue and the same power shall lie with the competent authority of either city or county, and the revoking of a license by the State, county, or city, automatically revokes that of the other, and when the license of any person is revoked, he shall not be granted another for a period of five years.

§ 14. *General Provisions.* (a) There shall be no more than one license issued in any county of this Commonwealth to each 10,000 population therein based upon the last official census in unincorporated territory in any county, and there shall be no more than one license issued to each 10,000 population in any incorporated city or town within such counties. (b) There shall be no alcoholic beverages sold or consumed upon the premises of the established place of business of the licensee, nor shall the licensee be engaged in the traffic of alcoholic beverages at any other place, either in the manufacture, wholesale, or retail of beverages during the term of license. (c) Minors shall not be permitted on the premises of the established place of business of the licensee, nor by any other means shall any minor be permitted to do business with the licensee. (d) No person shall establish his place of business within 500 feet of any church or school. (e) The place to be established by the licensee shall be declared and described in the original application, and he shall do business at no other place.

§ 15. *Penalties.* Any person violating any of the provisions of this Act shall be guilty of a misdemeanor and shall be fined not less than $250.00 and not more than $500.00 for the first offense, and not less than $500.00 and not more than $1,000.00 for a second offense, and upon conviction of a second offense such person shall never be granted another license to do business, as provided by this Act, in this Commonwealth.

§ 16. All laws and parts of laws in conflict herewith are hereby repealed. This Act shall become effective upon its passage and approval by the Governor according to the laws of the Commonwealth.

By Mr. McCarthy:

H. B. 29. An Act relating to revenue and taxation, providing for an income tax, the collection and administration thereof, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* For the purpose of this Act, and unless otherwise required by the context:

(a) The word "person" includes individuals, co-partnerships, business trusts, joint stock companies, fiduciaries, and corporations.

(b) The word "taxpayer" includes any person, corporation, partnership, association, trust or estate required by this Act to pay tax and/or to file reports.

(c) The word "partnership" includes all co-partnerships, whether general or special, and whether limited or unlimited; it includes also all joint enterprises.

(d) The word "individual" means all natural persons whether married or unmarried, and also all trusts, estates and fiduciaries acting for other persons; it does not include corporations or partnerships acting for or in their own behalf.

(e) The words "taxable year" means the calendar year or the fiscal year ending during such calendar year upon the basis of which the net income is computed under this Act. The term "taxable year" includes, in the case of a return made for a fractional part of a year under the provisions of this Act, the period for which such return is made.

(f) The words "fiscal year" mean an accounting period of twelve months ending on any day of any month other than December 31.

(g) The word "resident" applies only to natural persons and includes, for the purpose of determining liability to the taxes imposed by this Act upon the income of any taxable year, every person domiciled in this State on the last day of the taxable year, and every other person who, for more than six (6) months of the taxable year, maintained his place of abode within this State, whether domiciled in this State or not. But any person who, on or before the last day of the taxable year, changes his place of abode to a place without this State, with the *bona fide* intention of continuing actually to abide permanently without this State, shall be taxable the same as a non-resident is taxable under this Act. The fact that a person who has changed his place of abode, within six (6) months from so doing, again resides within this State, shall be *prima facie* evidence that he did not intend permanently to have his place of abode without this State. Such person not having returned his income for taxation as a resident of this State shall be deemed to have resided on the day when such income should have been listed at his last place of abode within this State. The fact that a person whose place of abode during the greater portion of such twelve (12) months has been within this State does not claim or exercise the right to vote at public elections within this State, shall not, of itself constitute him a non-resident of this State within the meaning of this Act.

(h) The word "dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members whether such distribution be made in cash, or in other property, other than stock in the corporation. It includes such portion of the assets of a corporation distributed at the time of dissolution as are in effect a distribution of earnings.

(i) The word "include" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(j) The word "Department" means the Department of Revenue of Kentucky, and "Commissioner" means the Commissioner of Revenue.

§ 2. *Gross income and exclusions therefrom.* The term "gross income," as used herein, includes gains, profits and income derived from salaries, wages, or compensation for personal services of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales or dealings in property, whether real or personal, growing out of the ownership, or use, or interest in such property (but income realized or loss sustained from the sale of property held two years or more, other than property items customarily included in an inventory, shall be ignored in computing income for purposes of this Act); also from rent, royalties, interest, dividends, securities or transactions of any business carried on for gain or profit, or gains or profits and income derived from any source whatever, including gains or profits and income derived through estates or trusts by the beneficiaries thereof, whether as distributive or as distributable shares. The amount of all such items shall be included in the gross income for the taxable year in which received by the taxpayer, unless under the methods of accounting permitted herein, such amounts are to be properly accounted for as of a different period; but the term ''gross income'' does not include the following items, which shall be exempt from taxation under this Act:

(a) The proceeds of life insurance policies paid by reason of the death of the insured, but interest thereon shall be assessed under the provisions of this Act;

(b) Amounts received (other than amounts paid by reason of the death of the insured) under life insurance, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract, equal to the total amount of premiums paid thereon; provided, however, that in the case of annuities either for life or for a fixed term, the excess value thereof over amount of premiums paid, derived through application of the life expectancy (under the United States Mortality Tables) or the number of years of the fixed term, shall not be exempt and shall, for the purpose of computing the annual taxable income, be divided by the number of years such annuities are payable. The annual income so computed shall be taxable as is other income.

(c) The value of property acquired by gift, bequest, devise or inheritance received during the year; but the income received by reason of such gifts, bequests, devises and inheritances shall be assessed under the provisions of this Act;

(d) Any amount received through accident or health insurance or under the workmen's compensation act for personal injuries or sickness, and the amount of any damages received, whether by suit or agreement, on account of such injuries or sickness;

(e) Interest upon obligations of the United States or of this State, and interest upon securities issued under the provisions of any of the instrumentalities of the federal government; and

(f) Salaries, wages and other compensation received from the United States by officers or employees thereof.

§ 3. *Deductions.* (1) Taxpayers reporting income as prescribed by this Act shall be allowed the following deductions:

(a) All ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation paid for personal services actually rendered in producing the taxable income;

(b) All interest paid or accrued within the taxable year on indebtedness incurred or continued for the purpose of earning income subject to taxation under this Act;

(c) Property taxes, poll taxes, and corporation franchise or license taxes paid to the Commonwealth of Kentucky, its taxing subdivisions, or its municipalities;

(d) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in trade or business, the income from which is subject to taxation under this Act;

(e) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in any transaction entered into for profit which profit would be subject to taxation under this Act, though not connected with the trade or business;

(f) Losses sustained during the taxable year of property not connected with the trade or business (but in the case of a taxpayer other than a resident, only of real property or tangible personal property having a permanent situs in this State), if arising from fire, storms, shipwrecks or other casualty or from theft and not compensated for by insurance or otherwise;

(g) Debts ascertained to be worthless and charged off within the taxable year. In the case of a debt existing on the effective date of this Act no more than its fair market value of that date shall be deducted. A worthless debt arising after the effective date of this Act from unpaid wages, salary, sales, rent or any similar item of taxable income is not an allowable deduction unless the income which said item represents has been included as income by the taxpayer in a return rendered under this Act. In the case of taxpayers who keep regular books of account on an accrual basis and according to standard accounting practice, there may be deducted, in lieu of the foregoing, additions to reserves for bad debts, under such rules as the Department may prescribe; if said Department at any time shall deem the reserve excessive, it may restore such excess to income either in a subsequent year or as a part of the income of the taxable year and assess it accordingly;

(h) The actual amount paid during the taxable year for repairs to and maintenance of buildings and machinery, provided that no deductions shall be made for any repair which is chargeable to residence property occupied by its owner, or for depreciation thereof; and the annual value of the estimated rental thereof shall not be included in the income subject to taxation;

(i) All fire, tornado and casualty insurance premiums paid during the taxable year in connection with property held for investment or business;

(j) A reasonable allowance for exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence;

(k) Dividends received during the taxable year upon stock of national banks and dividends received during the taxable year upon stock of banks and trust companies organized under the laws of this State;

(l) Contributions or gifts made by individuals within the taxable year to or for the use of: (1) this State, its institutions, or any municipality or taxing subdivision of the State for exclusively public purposes; (2) any corporation, or trust or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes exclusively in Kentucky, no part of the net earning of which inures to the benefit of any private shareholder or individual; (3) posts or organizations of war veterans or auxiliary units or societies of any such posts or organizations if such posts, organizations, units, or societies of any such posts or organizations if such posts, organizations, units, or societies, are organized in Kentucky and if no part of their net earnings inures to the benefit of any private shareholder or individual; or (4) a fraternal society, order, or association, operating under the lodge system, but only if such contributions or gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes in Kentucky to the amount which in all the above cases combined does not exceed fifteen per cent (15%) of the taxpayer's net income as computed without the benefit of this subsection. Such contributions or gifts shall be allowable as deductions only if verified under the rules and regulations prescribed by the Department.

Whenever transactions are made between husband and wife, parent and child, brothers, sisters, or brother and sister which transactions result in so-called losses that would if allowed reduce the taxpayer's net income in such a way as to decrease the tax due the State of Kentucky, then such so-called losses shall not be deductible, such sales being *prima facie* mere transfers within the family and not as giving rise to such losses as are intended to be deductible under this Act.

§ 4. *Deductions not allowed.* In computing net income no deduction shall be allowed in any case in respect of:

(a) Personal, living, or family expenses;

(b) Any amount paid out for new buildings or new machinery for permanent improvements or betterments, or for any other capital outlay made to increase the value of any property or estate;

(c) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made;

(d) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy.

(e) Losses from wagering transactions.

§ 5. *Net income.* The term ''net income'' means the gross income of a taxpayer less the deductions allowed by this Act.

§ 6. *Gains from sale of assets.* Gains or losses from the sale or other disposition of property, real or personal or mixed shall be treated for purposes of this Act as all other income or loss if such property be disposed of within two (2) years from the time acquired, as provided in Section 2 hereof. The basis for computing such gain or loss shall be the cost or, if acquired by some means other than purchase, the fair market value thereof at the time acquired.

§ 7. *Exchanges.* Where property is exchanged for other property, the property received in exchange, for the purpose of determining the gain or loss, shall be treated as the equivalent of cash to the amount of its fair market value; but when in connection with the reorganization, merger or consolidation of a corporation a taxpayer receives in place of stock or securities owned by him, new stock or securities of the reorganized, merged or consolidated corporation, no gain or loss shall be deemed to occur from the exchange until the new stock or securities are sold or realized upon and the gain or loss is definitely ascertained, until which time the new stock or securities received shall be treated as taking the place of the stock and securities exchanged.

§ 8. *Accounting period and changes therein.* (1) The income of the taxpayer shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer, but if no such method of accounting has been employed, or if the method employed does not clearly reflect the true income of the taxpayer, the computation shall be made upon the basis, and in such manner, as in the opinion of the Department does clearly reflect the true income. If the taxpayer's annual accounting period is other than a fiscal year, so defined in this Act, or if the taxpayer has no annual accounting period, or does not keep books, the net income shall be computed on the basis of the calendar year.

(2) If the taxpayer makes a federal income tax return his income shall be computed for purposes of this Act on the basis of the same calendar or fiscal year as in such federal income tax return.

(3) If a taxpayer, with the approval of the Department, changes his accounting period from a fiscal year to a calendar year, from calendar year to fiscal year, or from one fiscal year to another, the income shall be computed on the basis of such new accounting period, subject to the following provisions:

(a) If a taxpayer changes the basis of computing net income from fiscal year to calendar year, a separate return shall be made for the period between the close of the last fiscal year for which return was made the following December thirty-first. If the change is made from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the first succeeding date designated as the close of the fiscal year. If the change is made from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the first succeeding date designated as the close of the new fiscal year.

(b) If a return is made by an individual for a period of less than one (1) year, the net income, computed on the basis of the period for which separate return is made, shall be placed on an annual basis by multiplying the amount thereof by the number of days in the year and dividing by the number of days included in the period for which the separate return is made. The tax payable shall be such part of the tax computed on such annual basis as the number of days in such period is of the number of days in the year.

§ 9. *Information returns.* (1) Every corporation subject to the jurisdiction of this State, unless excused by the Department, shall render a correct return, duly verified under oath, of its payments of dividends to residents of this State, stating the name and address of each shareholder, the number of shares owned by him, and the amount of dividends paid to him.

(2) Every person subject to the jurisdiction of this State, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, and employers making payment to another person (domiciled in this State), of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable gains, profits, and income of six hundred dollars ($600.00) or more in any taxable year, or, in the case of such payments made by the Commonwealth of Kentucky and its political subdivisions, the officers or employees of this State or of its political subdivisions having information as to such payments and required to make returns in regard thereto by

the regulations hereinafter provided for, shall render a true and accurate return to the Department, under such regulations and in such form and manner and to such extent as may be prescribed by it, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payments. Be it provided that the Department may require any person to make information returns respecting non-residents it believes to be subject to tax under this Act. Such returns may be required, regardless of amounts, in the case of payments of dividends or interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations. (When necessary to make effective the provisions of this section the name and address of the recipient of the income shall be furnished upon demand of the person paying the income.) The provisions of this section shall not apply to the payment of interest on obligations of the United States or of this State.

§ 10. *Copy of federal return may be required.* Whenever in the opinion of the Department it is necessary to examine the federal income tax return or a copy thereof of any taxpayer in order properly to audit the returns of such taxpayer, the Department shall have the right to compel the taxpayer to produce for inspection a copy of such return and all statements and schedules in support thereof.

§ 11. *Secrecy of returns; reciprocity; statistics.* (1) Except in accordance with proper judicial order and except to an officer of the State having a right thereto in his official capacity, it shall be unlawful for any officer or employee to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return under this Act.

(2) In the event the United States government or any other state allows this State's officials to examine its income tax returns, or any class thereof, then this State, upon application by the proper authorities of the United States or such

other state, to the Department, shall allow the proper officials of the United States government or of such other state, whose official duties require them to make such inspection, to inspect the income tax returns of such corresponding class of such income tax returns made to this State.

(3) Nothing herein shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports and the items thereof, or of the publication of delinquent lists showing the names of taxpayers who have failed to pay their taxes at the time and in the manner provided by law, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes; or the inspection by the attorney general or other legal representatives of the State of any return or report of any taxpayer.

(4) An offense against the provisions of this section shall be punished by a fine not exceeding one thousand dollars ($1,000), by confinement in jail for not more than six (6) months, or by both such fine and imprisonment.

§ 12. *Returns to be preserved.* Reports and returns received by the Department under the provisions of this Act shall be preserved for three (3) years and thereafter until the Commissioner orders them to be destroyed.

§ 13. *Exemptions.* The following exemptions, chargeable against the first bracket or brackets of income, shall be allowed to individuals reporting income as required by this Act:

(1) In case of a single person, or a married person not living with husband or wife, the personal exemption shall be one thousand dollars ($1,000); in case of a husband and wife, living together, the personal exemption shall be two thousand dollars ($2,000). For each person (other than the husband or wife) dependent upon and receiving his chief support from the taxpayer during the taxable year if such dependent person is under eighteen years of age or is incapable of self-

support because mentally or physically defective, the personal exemption shall be three hundred dollars ($300.00). A husband and wife living together shall receive but one personal exemption of two thousand dollars ($2,000) against their aggregate income. A husband and wife not living together shall make separate returns; and a husband and wife living together shall make a joint return, or may make separate returns if submitted together; provided, that if husband and wife living together make separate returns their incomes shall be aggregated for the purpose of computing the tax due. (If husband and wife have separate incomes, they may divide the tax between them, in proportion to income.)

(2) If the status of the taxpayer, insofar as it affects personal exemption or credit for dependents, changes during the taxable year, the personal exemption and credit shall be apportioned in accordance with the number of days before and after such change.

§ 14. *Imposition of tax.* (1) A tax is hereby annually levied for each taxable year upon every resident individual of this State upon his entire net income as herein defined for purposes of taxation (subject to exemptions provided in Section 13) at the following rates:

(a) Two per cent (2%) of the amount of such net income not exceeding three thousand dollars ($3,000);

(b) Three per cent (3%) of the amount of such net income in excess of three thousand dollars ($3,000), but not in excess of four thousand dollars ($4,000);

(c) Four per cent (4%) of the amount of such net income in excess of four thousand dollars ($4,000), but not in excess of five thousand dollars ($5,000);

(d) Five per cent (5%) of the amount of such income in excess of five thousand dollars ($5,000).

(2) A like tax is hereby annually levied for each taxable year at the rate specified in this section upon and with respect

to the entire net income (except as herein provided) from all property owned and from business, trade, profession, or occupation carried on in this State by natural persons not residents of this State. But a non-resident individual receiving income from labor performed, business done, or property located in this State, and income from labor performed, business done or property located outside of this State, shall be taxable only upon the amount of income received by such taxpayer from labor performed, business done, or property located within this State. The remainder of the income received by him shall be deemed non-taxable by this State.

In the case of non-residents and of residents who receive credits on account of income taxes paid in other states, the personal exemptions allowable under this Act shall be that proportion of those permitted under Section 13 which is represented by the ratio of the taxpayer's net income in Kentucky to his total net income from all sources.

In the case of a non-resident who derives income from sources in Kentucky, the Commissioner shall require not to exceed five per cent (5%) of the income of said non-resident to be withheld by the employer or other person making payments to said non-resident for the purpose of satisfying the Commonwealth's income tax claim. On failure to withhold said tax or to remit to the department within thirty (30) days, the employer or other person hereby charged with the duty of withholding said tax is hereby made personally liable for said tax and for penalty and interest thereon as provided herein. After the non-resident shall have submitted his annual return and it shall have been audited, the Department shall refund any over-payment with interest at six per cent (6%) per annum from the date received until certified for refund.

(3) Every domestic corporation organized under the laws of this State and every foreign corporation doing business in this State (except state and national banks and trust companies, insurance companies, and religious, educational,

charitable and other corporations not organized or conducted for pecuniary profit) shall pay for each taxable year a tax to be computed by the Department upon the entire net income of such corporation, derived from business done, property located or sources in this State; and such tax is hereby annually levied for each taxable year at the rate of four per cent (4%) of the entire net income of the corporation or the portion thereof taxable within the State, determined as provided in this Act.

§ 15. *Credits allowed residents.* Whenever a resident individual of this State has become liable for income tax to another state upon his net income, or any part thereof, for the taxable year, derived from sources without this State and subject to taxation under this Act, the amount of income tax payable by him under this Act shall be credited on his return with the income tax so paid by him to such other state upon his producing to the proper assessing officer satisfactory evidence of the fact of such payment; provided, however, that application of such credits shall not operate to reduce the tax payable under this Act to an amount less than would have been payable were the income from such other state ignored. The credit provided for by this section shall not be granted to a taxpayer when the laws of another state, under which the income in question is subject to tax assessment, fail to provide for a credit to such taxpayer substantially similar to that granted by Section 16 of this Act.

§ 16. *Credits allowed non-residents.* Whenever a non-resident individual of this State has become liable for income tax to the state where he resides upon his net income for the taxable year, derived from sources within this State and subject to taxation under this Act, the amount of income tax payable by him under this Act shall be credited with such proportion of the tax so payable by him to the state where he resides as his income subject to taxation under this Act bears to his entire income upon which the tax so payable to such other state was imposed; provided, that such credit shall be allowed only if the laws of said state (a) grant a substantially similar credit to residents of this State subject to income tax under such laws, or (b) impose a tax upon the personal incomes of its residents derived from sources in this State and exempt from taxation the personal incomes of residents of this State. No credit shall be allowed against the amount of the tax on any income taxable under this Act which is exempt from taxation under the laws of such other State.

§ 17. *Who shall make individual returns.* Every individual having a net income for the taxable year of one thousand dollars ($1,000) or over, if single, or if married and not living with husband or wife, and every individual having a net income for the taxable year of two thousand dollars ($2,000) or over, if married and living with husband or wife, shall make to the Department under oath a return stating specifically the items of his entire income and the items which he claims as deductions and exemptions allowed by this Act; provided, however, that every individual having a gross income for the taxable year of fifteen hundred dollars ($1,500) or over, if single or if married and not living with husband or wife, and every individual having a gross income for the taxable year of three thousand dollars ($3,000) or over, if married and living with husband or wife, shall make such a sworn return. If the individual is unable to make his own return, the return shall be made by a duly authorized agent.

§ 18. *Corporations to make returns.* Every corporation doing business in Kentucky, except those exempt from taxation under Section 14, shall make a return stating specifically the items of income and the items claimed as deductions allowed by this Act.

Corporations which are affiliated must each make separate returns.

§ 19. *Supplementary returns by affiliated corporations.* In the case of a corporation doing business in Kentucky which carries on transactions with stockholders or with other corporations related by stock ownership, by interlocking directorates, or by some method not specified here, the Department shall require information necessary to render possible accurate assessment of the income derived by the corporation doing business in Kentucky from sources within this State. To make possible such assessment, the Department may require such corporation doing business in this State to file supplementary returns showing information respecting the business of any or all individuals and/or corporations related by one or more of these methods to the corporation doing business in Kentucky. The Department may require such report to show in detail the record of transactions between the corporation doing business in Kentucky and any or all other related corporations or individuals.

§ 20. *Verification of corporation and partnership returns.* Every corporation or partnership return and/or report required by this Act shall have annexed thereto the affidavit of the president, vice-president, secretary, treasurer, assistant secretary or assistant treasurer, and the chief accounting officer of the corporation or the affidavit of a member of the partnership to the effect that the statements contained therein are true. The Department may require a further or supplemental report under this Act to contain further information and data necessary for computation of the tax herein provided.

§ 21. *Penalty for failure to make return.* (1) Any person who fails to make any report or return required by this Act within the time required shall pay a penalty of ten per cent (10%) of the tax found to be due but in no case less than ten dollars ($10.00) to be assessed and collected in the manner provided for the assessment and collection of taxes under this Act, or in a civil action, at the instance of the Department; and in addition such delinquent may be compelled to make such report or return. Any officer of any corporation or any other person who makes a fraudulent return or statement with intent to defeat or evade the payment of the taxes prescribed by this Act shall be deemed guilty of perjury and punished accordingly and shall in addition thereto pay the same penalty as in this section provided for failure to make returns on time.

(2) The circuit court of Franklin County shall have jurisdiction of all causes under this Act except as the Constitution of Kentucky may provide otherwise.

§ 22. *Taxpayer to make return whether return form is sent or not.* Blank forms of returns for income shall be supplied by the Department which shall deliver them to the taxpayers not later than February fifteenth of each year. It shall be the duty of the Department to obtain an individual income tax return from every taxpayer who is liable under the law to file such a return; but this duty shall in no manner diminish the obligation of the taxpayer to file a return without being called upon to do so.

§ 23. *Department to administer.* (1) The Department of Revenue is hereby authorized and required to administer the provisions of this Act. For this purpose it shall have power and it shall be its duty to promulgate such regulations and to prescribe such forms as may be necessary for the enforcement of the Act. It is hereby made the duty of the Department to prescribe forms identical with those utilized by the federal government except to the extent required by differences between this Act and its application and the federal act and its application. It is also made the duty of the Department to apply as far as practicable the administrative and judicial interpretations of the federal income tax law. It is declared to be the intent of the General Assembly that computations of income for purposes of this Act shall be as nearly as practicable identical with the calculations required for federal income tax purposes.

(2) Every taxpayer liable to any tax imposed by this Act

shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations as the Department from time to time may prescribe. Whenever the Department judges it necessary, it may require any taxpayer, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the Department deems sufficient to show whether or not such taxpayer is liable to tax under this Act; and the extent of such liability.

(3) The Commissioner or his authorized agent or representative, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the taxable income of any taxpayer, shall have power to examine any books, papers, records, or memoranda, bearing upon the matters required to be included in the return, and may require the attendance of the taxpayer or of any other person having knowledge in the premises, and may take testimony and require proof material for its information, with power to administer oath to such person or persons.

(4) The Commissioner may, with prior approval of the Governor in writing, appoint and remove a director of income taxation (who shall head the division of income taxation hereby established in the Department of Revenue) and such other officers, agents, and employees as it may deem necessary for the enforcement of this Act, such persons to have such duties and powers as the Department from time to time may prescribe; provided, however, that the director of income taxation and not less than two employees must be accountants and graduates of recognized four-year colleges or universities.

(5) The Department may require such of the officers, agents, and employees as it may designate, to give bond for the faithful performance of their duties in such sum and with such sureties as it may determine; and all premiums on such bonds shall be paid by the Department out of monies appropriated for the purpose of administering this Act.

(6) The Department shall have power to institute legal proceedings by the Attorney General or by other counsel approved by him for the purpose of ascertaining the amount of tax due under the provisions of this Act and to enforce the collection thereof and penalties and interest thereon. The Department may, at or after the commencement of an action for the purpose of collecting the amount due, have an attachment against the property of the taxable person or garnishment of his creditors without execution of a bond upon filing an affidavit alleging the nature of the claim, that it is just, the sum which the Department believes the State should recover, and any of the grounds on which the Civil Code of Practice authorizes the issue of an attachment in civil proceedings.

§ 24. *Time of returns.* All return of income for the preceding taxable year shall be made on or before the fifteenth day of April in each year, except that such returns, if made on the basis of a fiscal year, shall be made on or before the fifteenth day of the fourth month following the close of such fiscal year.

§ 25. *Extension of time for filing returns.* The Department may grant a reasonable extension of time for filing income returns whenever in its judgment good cause exists and shall keep a record of every such extension. Except in case of a taxpayer who is abroad, no such extension shall be granted for more than six (6) months, and in no case for more than one (1) year. In the event time for filing a return is deferred, the taxpayer is hereby required to pay, as part of the tax, an amount equal to six per cent (6%) per annum on the tax ultimately assessed from the time the return was due till it is actually filed in the office of the Department.

If any report or return required by this Act be not made as herein required, the Department is authorized to make an estimate of the net income of such corporation and of the amount of tax due under this Act, from any information in its possession, and to assess the tax at not more than twice the amount estimated to be due and to require payment of the taxes, penalties and interest due to the State from such person as thus assessed.

§ 26. *Revisions and appeals.* As soon as practicable after each return is received, the Department shall examine and audit it. If the amount of tax computed by the Department shall be greater than the amount returned by the taxpayer, the excess shall be assessed by the Department (within three years from the date the return was originally due or filed, except in the case of failure to file a return or of a fraudulent or incomplete return in which case the excess may be assessed at any time); and a notice thereof shall be mailed to the taxpayer. In the event the taxpayer is dissatisfied with his assessment, he may within thirty (30) days from the date of notice, apply to the State Tax Commission for a hearing. The Tax Commission shall set a date within a reasonable time for a public hearing; and, on the basis of the law and the facts, the Tax Commission shall sustain the original assessment or make a new assessment. The determination by the Tax Commission shall be *prima facie* evidence of the amount of the tax due, and the Department shall give the taxpayer written notice of the assessment of tax, interest, and penalties. The taxpayer shall remit to the Tax Commission within sixty (60) days. Nothing herein shall prevent the taxpayer from appealing by petition in equity within sixty (60) days to the Franklin Circuit Court, from the decision by the Tax Commission. Either party may appeal to the Court of Appeals in the manner provided by law.

§ 27. *Refunds.* In the event any person pays more tax than is found to have been due, the Department shall refund the over-payment in the same manner that other claims on the State treasury are paid. In the event the overpayment results from an error on the part of the Department or its agent, but not otherwise, the refund shall be paid with interest at six per cent (6%) per annum.

§ 28. *Time of paying tax.* The full amount of the tax payable by any taxpayer, as the same shall appear from the face of the return, shall be paid to the Department at the time fixed herein for filing returns; provided, however, that any taxpayer who desires to do so may defer payment of one-third of the amount shown by the return to be due until the fifteenth day of the seventh month following the end of the taxable year and an additional one-third until the fifteenth day of the eleventh month following the end of the taxable year, but such deferred payments shall be subject to interest at the rate of six per cent (6%) per annum from the date the return is due until paid. In the event additional amounts are found to be due after the return has been filed, such amounts shall likewise be subject to interest at six per cent (6%) per annum from the time the return was originally due until payment is actually made to the Department.

§ 29. *Estates and trusts.* (1) The tax imposed by this Act upon individuals shall apply to estates and trusts and to every fiduciary of whatever character, which tax is hereby levied annually upon and with respect to the income of estates or of any kind of property held in trust, including:

(a) Income received by estates of deceased persons during the period of administration or settlement of the estate;

(b) Income accumulated in trust for the benefit of an unborn or unascertained person or persons with contingent interests;

(c) Income held for future distribution under the terms of the will or trust;

(d) Income which is to be distributed to the beneficiaries periodically, whether or not at regular intervals, and the income collected by a guardian of an infant to be held or distributed as the court may direct; and

(e) Income of an estate during the period of administration or settlement permitted by subdivision (3) of this section to be deducted from the net income upon which the tax is to be paid by the fiduciary.

(2) The fiduciary shall be responsible for making the return of income for the estate or trust for which he acts whether such income be taxable to the estate or trust or to the beneficiaries thereof. The net income of an estate or trust shall be computed in the same manner and on the same basis as provided in this Act for individual taxpayers, except that there shall also be allowed as a deduction any part of the gross income which, pursuant to the terms of the will or deed creating the trust, is during the taxable year paid to or permanently set aside for the United States, this state or any municipality or taxing subdivision thereof, or any corporation or association organized and operated in Kentucky exclusively for religious, charitable, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual; and, in cases under paragraphs (d) and (e) of subdivision (1) of this section, the fiduciary shall include in the return a statement of each beneficiary's distributive share of such net income, whether or not distributed before the close of the taxable year for which return is made.

(3) In cases under paragraphs (a), (b), and (c) of subdivision (1) of this section, the tax shall be imposed upon the estate or trust with respect to the net income of the estate or trust and shall be paid by the fiduciary, except that in determining the net income of the estate of any deceased person during the period of administration or settlement there may be deducted the amount of any income properly paid or credited to any legatee, heir or other beneficiary. In such cases, the estate or trust shall be allowed no exemption such as is allowed to individuals by this Act, and a trust created by a person not a resident, and an estate of a person not a

resident shall be subject to tax only to the extent to which individuals other than residents are liable under this Act.

(4) In cases under paragraphs (d) and (e) of subdivision (1) of this section, if the distribution of income is in the discretion of the fiduciary, either as to the beneficiaries to whom payable or as to the amounts to which any beneficiary is entitled, the tax shall be imposed upon the estate or trust in the manner provided in subdivision (3) of this section, but without the deduction of any amounts of income paid or credited to any such beneficiary. In all other cases under paragraphs (d) and (e) of subdivision (1) of this section, the tax shall not be paid by the fiduciary, but there shall be included in computing the net income of each beneficiary his distributive share, whether distributed or not, of the net income of the estate or trust for the taxable year; or, if his net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the estate or trust is computed, then his distributive share of the net income of the estate or trust for any accounting period of such estate or trust ending within the fiscal or calendar year upon the basis of which such beneficiary's net income is computed. In such cases the income of a beneficiary, not a resident, derived through such estate or trust, shall be taxable only to the extent provided in this Act.

§ 30. *Fiduciary returns.* (1) Every fiduciary (except receivers appointed by authority of law in possession of part only of the property of a taxpayer) shall make under oath a return for the person or estate or trust for whom or for which he acts, as follows:

(a) If he acts for a living person whose entire income from whatever source derived is in his charge and the net income of such individual is one thousand dollars ($1,000) or over if single, or if married and not living with husband or wife, or two thousand dollars ($2,000) or over if married and living with husband or wife;

(b) If he acts for an estate of a deceased person during the period of administration or settlement, whether or not the income of such estate during such period of administration or settlement is properly paid or credited to a legatee, heir or other beneficiary; for an estate or trust the income of which is accumulated in trust for the benefit of unborn or unascertained persons or person with contingent interest; or for an estate or trust the income of which is held for future distribution or is distributable at the discretion of the fiduciary under the terms of the will or trust;

(c) If he acts for an estate or trust the income of which is to be distributed to the beneficiaries periodically; or as the guardian of an infant whose income is to be held or distributed as the court may direct. The return made by a fiduciary shall state specifically the items of the gross income and the deductions and exemptions allowed by this Act. Under such regulations as the Department may prescribe, a return made by one of two or more joint fiduciaries shall be a sufficient compliance with the above requirements. The fiduciary shall make oath that he has sufficient knowledge of the affairs of the individual, estate or trust for whom or which he acts to enable him to make the return, and that the same is, to the best of his knowledge and belief, true and correct.

(2) Fiduciaries required to make returns under this Act shall be subject to all the provisions of this Act which apply to other taxpayers.

(3) Fiduciary returns shall be filed within the time required by this Act for the filing of individual returns, and for failure to file returns in time, fiduciaries shall be subject to the same penalties as individuals.

(4) The returns required by this section shall be handled in the same manner as returns are handled for individuals.

§ 31. *Partnership income.* Individuals carrying on business in partnership shall be liable for income tax only in their individual capacity, and no income tax shall be assessable hereunder upon the net income of any partnership. All such income shall be assessable to the individual partners; it shall be reported by such partners as individuals upon their respective individual income returns, and it shall be taxed to them as individuals along with their other income at the rates and in the manner herein prescribed for the taxation of income received by individuals. There shall be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for he taxable year; or, if his net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the partnership is computed, then his distribution share of the net income of the partnership for any accounting period of the partnership ending within the taxable year upon the basis of which the partner's net income is computed.

§ 32. *Allocation of corporate income.* (1) Interest, dividends, rent and royalties not received in connection with the transaction of business, and gains from the sale of property not held, owned or used in connection with business (less related expenses, if any) shall be allocated to Kentucky if received from sources within Kentucky, and if received from sources outside of Kentucky such income shall be allocated outside the State; and the balance, hereinafter referred to as business income, shall be allocated to Kentucky and shall be taxable as hereunder set forth. Gains or losses by domestic corporations from the sale of securities issued by foreign governments or by corporations organized under the laws thereof shall be allocated to Kentucky.

(2) If the trade or business of the corporation is carried on entirely within the State, the tax shall be imposed on the entire business income; but, if such trade or business is carried on partly within and partly without the State, the tax shall be imposed only on the portion of the business income

reasonably attributable to the trade or business within the State, to be determined as follows:

(a) Interest, dividends, rents and royalties (less related expenses) received in connection with business in the State, shall be allocated to the State and where recived in connection with business outside of the State shall be allocated outside of the State.

(b) Gains, includible in gross income under Sections 2 and 6, from the sale of capital assets or property held, owned or used in connection with the trade or business of a corporation but not for sale in the regular course of business shall be allocated to the State if the property sold is real or tangible personal property situated in the State, or intangible property connected with the business in the State.

(c) Net income of the above classes having been separately allocated and deducted as above provided, the remainder of the net business income of a corporation shall be allocated and apportioned as follows:

(A) Where income is derived from business other than the manufacture and sale of tangible personal property, or the conduct of a public utility, such income shall be specifically allocated or equitably apportioned within and without the State under rules and regulations of the Department.

(B) Where income is derived from the manufacture or sale of tangible personal property, the portion thereof attributable to business within the State shall be taken to be such percentage of the total of such income as the value of the tangible property and business within the State bears to the value of the total tangible propery and total business, the percentage of tangible property and of business being separately determined as hereinafter provided, and the two percentages averaged.

(C) For the purpose of the foregoing computation, the value of the tangible property shall be taken to be the average value of the tangible property held and owned by the corporation in connection with such business during the year for which the income is returned, excluding any property the income of which is not taxable or separately allocated under the foregoing provisions of this Act.

(D) The business of the corporation shall be measured by the amount of all receipts during the year from sales and other sources connected with said business, excluding, however, receipts from the sale of capital assets and property not sold in the regular course of business and also receipts from interest, dividends, rents and royalties separately allocated as above provided. Accounts receivable from sales and other sources arising from business during the year, shall be included in the formula if the corporation's return is made on the accrual basis.

(E) Receipts from sales and other sources shall be assigned to the office, agency, or place of business of the corporation at or from which the transactions giving rise to such receipts are chiefly handled and attended to with respect to the negotiation and execution.

(d) For the purpose of this section the word "sale" shall include all exchange, and the word "manufacture" shall include the extraction and recovery of natural resources and all processes of fabricating and curing.

(3) Where the income is derived from the conduct of a public utility, the portion thereof attributable to business within the State shall be taken to be such percentage of the total of such income as the tangible property and business within the State bear to the total tangible property and total business, the percentages of tangible property and of business being separately determined as hereinafter provided, and the two percentages averaged.

(a) For the purpose of the foregoing computation, the value of the tangible property shall be taken to be the average value of the tangible property held and owned by the corporation in connection with such business during the year for which the income is returned, excluding any property the income of which is not taxable or is separately allocated under the foregoing provisions of this Act.

(b) In determining the tangible property located within this State of a railroad company operating both within and without the State, the valuation of car rolling stock and equipment and the locomotive rolling stock and equipment within the State shall be found by applying to the total valuation of the entire rolling stock and equipment of each respective class belonging to such company that proportion or percentage which the car mileage within the State during the income year bears to the total car mileage of such company's cars, and which the locomotive mileage within the State during the income year bears to the total locomotive mileage of such company's locomotives, used in the conduct of its business both within and without the State for that year.

(c) The business of the public utility shall be measured by the amount of receipts from the carrying on of the business. Receipts in Kentucky shall be held to include in addition to all receipts from business commensing and terminating within this State such portion of receipts from all interstate business passing through or into or out of the State as is determined by applying to gross receipts from all business of transportation and communication enterprises that percentage which the mileage within the State over which such business was carried bears to the entire mileage over which it was carried. (The Department shall prescribe methods of allocating receipts of other utilities.) Accounts receivable from services rendered and other sources arising from business during the year shall be included in the formula if the corporation's return is made on the accrual basis.

§ 33. *Tax a personal debt.* Every tax imposed by this Act, and all increases, interest and penalties thereon, shall become, from the time it is due and payable, a personal debt, from the person or persons liable to pay the same, to the Commonwealth of Kentucky.

§ 34. *Penalty and interest.* If taxes imposed by this Act be not paid when due, as provided herein, the taxpayer liable to such tax shall pay as a penalty, in addition to the amount of such tax, an additional tax of five per cent (5%) of such amount, plus one per cent (1%) for each month the tax or additional tax remains unpaid; but the Department, upon submission to it of satisfactory evidence that the failure to pay such taxes within the time prescribed in this Act was not willful or evasive, may modify the exaction to not less than one per cent (1%) for each month following the due date of the tax.

§ 35. *Discontinuation of business.* If any corporation or partnership shall dissolve or withdraw from the State during any taxable year, or if any corporation shall in any manner surrender or lose its charter during any taxable year, such dissolution, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of income taxes for such period of such taxable year as such corporation or partnership may have had an income in this State.

§ 36. *No suit to restrain or delay.* No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this act. The aggrieved taxpayer shall pay the tax under protest as and when required by the Department and may at any time within three (3) years from the date of such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in an action at law in any court, State or Federal, otherwise having jurisdiction of the parties and subject matter, for the recovery of the tax paid with legal interest thereon from the date of payment. If it is finally determined that said tax or any part thereof was wrongfully collected, for any reason, it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected together with legal interest thereon. The Treasurer shall pay the same at once out of the General Expenditure Fund of the State in preference to other warrants or claims against the Commonwealth. A separate suit need not be filed for each individual payment made by any taxpayer, but a recovery may be had in one suit for as many payments as may have been made, so far as same are not barred by time limitation herein specified.

§ 37. *Revenue for state general fund.* All revenue collected under the terms of this act shall be covered into the State Treasury and credited to the General Expenditure Fund.

§ 38. *Provisions severable.* The provisions of this act are severable. If any provisions, section, paragraph, or the application of any provision to any class of taxpayers should be held unconstitutional or invalid, such decision shall not affect or impair the remainder of the act, it being hereby declared the legislative intent to tax separately each class of income contemplated by any of its provisions.

§ 39. *Income for first taxable year.* The taxes imposed by this act shall first be collected and paid with respect to the net income received during the remainder of the taxable year in which this act becomes effective. The income taxable, in the event the taxpayer's records fail to disclose the income for the fraction of a year, shall be the total income for the taxable year multiplied by the number of days remaining (at the time the act becomes effective) in said year and divided by the total number of days in the year.

§ 40. *Emergency.* Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State government and its agencies, an emergency is declared to exist; and this act shall become a law and be effective on its passage and approval by the Governor.

§ 41. *Repeal of conflicting laws.* All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

By Mr. Farnsley:

H. B. 30. An Act relating to revenue and taxation, imposing an excise tax on the gross receipts of certain persons, firms, corporations, associations, co-partnerships and other forms of business organizations engaged in selling at retail certain types of personal property and/or certain classes of services and/or entertainment; providing for the enforcement of said act, the collection and distribution of the revenue arising therefrom and repealing all conflicting laws, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. This act shall be known and may be cited as the Luxury Tax Law of 1936.

§ 2. The term "merchant" is hereby defined for purposes of this act as a person regularly engaged in the vending of tangible personal property.

The term "person" is hereby defined for purposes of this act as including any individual, co-partnership, association, corporation, trust or other form of business organization, regardless of whether or not enumerated here and regardless of whether or not similar to those enumerated. Two or more business organizations held by majority stock ownership or ultimately controlled or directed by one management or association shall be construed for purposes of this act as one person.

The term "sales at retail" is hereby defined for the purposes of this act as sales of tangible personal property not intended for resale. The term, however, does not include casual sales by a person not regularly engaged in making sales, sales of material which enters into and becomes a part of a finished product to be offered for sale, including the container in which such product is sold; sales by farmers of commodities which they or their tenants or employees have produced on their farms, or sales of coal by the producers in quantities of not less than forty tons, sales of newspapers or of the space therein, and retail sales of gasoline, and sales of time on the air radio broadcasting stations.

The term "gross receipts" when applied to merchants making sales at retail shall be construed to mean the amount received in money, credits, property, or other money's worth, regardless of whether or not the form thereof be enumerated herein, in consideration of sales at retail within State; provided that in case of sales on open account or note the consideration shall only be deemed to be gross receipts when payments on such account or note shall be made in cash, property, or other money's worth, regardless of whether or not the form be enumerated in this paragraph; provided, futher, that credits for returned or defective goods and cash discounts allowed and taken on sales shall not be included as gross receipts, or if included and later allowed or credited, may be deducted from gross receipts in the month in which allowed or credited. Gross receipts, as thus defined, shall be deemed to include receipts by a merchant operating a place of business or store, irrespective of whether or not the amounts be received for sales made at the store and receipts by merchants operating a store and/or wagons or trucks or any other conveyance from which tangible personal property is sold and delivered, and receipts from goods, wares, sold by sample and later delivered, and from the sale of other commodities not at the place of business or store, regardless of whether or not mentioned here and whether or not similar to these, shall be included. As applied to places of amusement and/or entertainment, the term shall be construed to mean the amount received in money, credits, property or other money's worth, regardless of whether or not the form thereof be enumerated herein, in consideration of admissions, operation of machines, exercise of privileges granted for a charge, rentals on property, advertising by the said places of amusement and/or entertainment, or other accounts received by said places, regardless of form and regardless of whether or not enumerated in this paragraph and whether or not similar to those enumerated.

The term "places of amusement and/or entertainment" is hereby defined for purposes of this act as including hotels and restaurants (as defined in Carroll's Kentucky Statutes, 1930 Edition, Section 2059), theatres, race courses, dance halls, skating rinks, pool rooms, ball parks and other athletic exhibits or contests, bowling alleys, circuses, carnivals, amusement parks, swimming pools, and other places, regardless of whether or not enumerated in this paragraph and whether or not similar to those enumerated herein, which make a charge for admission or for other services and which are advertised or otherwise represented as offering their facilities to the public or to a section thereof.

The term "gross receipts" when applied to persons engaged in the sale and/or transportation of electric current, water, artificial or natural gas, or persons engaged in furnishing ways and means for the transmission of the voice and/or messages of persons to a person or persons within the Commonwealth, shall be construed to mean the amount received in money, credits, property, or other money's worth, regardless of whether or not the form thereof be enumerated herein; provided, that in case the business is conducted on open account or on note, the consideration shall be deemed only to be gross receipts when payments on such account or note shall be made in cash, property or other money's worth regardless of whether or not the form be enumerated herein.

The term "retailer" is hereby defined for purposes of this act as a person making sales at retail.

The term "manufacturer" is hereby defined as a person engaged in manufacturing (as the term is used in Carroll's Kentucky Statutes, 1930 Edition, Section 4019a-10).

The term "jobber" is hereby defined for purposes of this act as one, not a manufacturer, regularly engaged in making sales of personal property intended for resale.

The terms "Department", "Revenue Department" and "Department of Revenue" are each to be construed herein as meaning the Department of Revenue as created under the 1936 Rorganization Act.

The term "store" is hereby defined for purposes of this Act as a building, room, or place in or at which tangible personal property is kept for sale, or from or at which such property is sold.

§ 3a. An excise tax is hereby imposed on every merchant engaged in the sale of tangible personal property at retail, equal to three per centum (3%) of the aggregate gross receipts from the sale of tangible personal property by merchants made after this Act becomes effective, and every merchant engaged in the sale of tangible personal property at retail is required to account to the State of Kenucky for such tax in the manner provided in this Act, and shall not collect said tax from the purchaser as a separate item, but shall include the amount of such tax in the purchase price of any article sold.

§ 3b. An excise tax is hereby imposed on every person operating a place of amusement and/or entertainment equal to three per centum (3%) of the gross receipts derived from the operation of said place or places of amusement and/or entertainment, and every person operating a place of amusement and/or entertainment is required to account to the State of Kentucky for such tax in the manner provided in this Act, and shall not collect said tax from the purchaser of the tickets of admission as a separate item, but shall include the amount of such tax in the purchase price of any ticket of admission sold.

§ 3c. An excise tax is hereby imposed on every person engaged in the sale and/or transportation of electric current, water, artificial or natural gas, or persons engaged in furnishing the ways or means for the transmission of the voice and/or messages of persons to person or persons within the Commonwealth, excepting the United States mail, equal to three per centum (3%) of the aggregate gross receipts of such persons so engaged in such respective businesses, and such person is required to account to the State of Kentucky for such tax in the manner provided in this Act and shall not collect said tax from the purchaser as a separate item but shall include the amount of such tax in the purchase price thereof, provided, however, that no tax shall be imposed upon sales of electric current, water, artificial or natural gas to the United States or to any State or Territory or any political subdivision thereof and provided further that no tax shall be imposed upon sales of electric current, water, artificial or natural gas for resale or for use in manufacturing, processing, mining or refining.

§ 4. Whenever any person engages in a business made taxable by this Act which business includes the sale of any product which is construed as food for human beings, such sales of food shall be exempt from the provisions of this Act, it being the intention of the Legislature that no food products shall be taxed by the provisions hereof. The term "food" shall be construed to mean any nutritive material taken into the human body for the purpose of growth and for the maintenance of vital processes, but shall not include spices, pickles, olives, catsups, salad dressings, sandwich spreads, and condiments.

Every charitable and educational institution in the State of Kentucky and institutions thereof when engaged in activities made taxable by this Act shall be completely exempt from its provisions.

§ 5. It is hereby declared to be the legislative intent that every person engaged in the various business enterprises designated in this Act shall be made taxable under this Act on account of gross receipts of such business. The Department of Revenue shall prescribe appropriate rules and regulations to make this section effective.

§ 6. The Department of Revenue shall promulgate rules and regulations for the proper enforcement and administration of this Act.

In order to carry out the provisions of this section, it shall be unlawful for any person to advertise, either orally or in writing, that he is paying said taxes from any source other than the receipts of his business, and it shall be unlawful to advertise any article or service taxable hereunder as being sold free of the tax herein imposed.

§ 7. Every person operating a business made taxable under the provisions of this Act on gross receipts, shall, on or before the 15th day of the month succeeding the month in which this bill becomes a law, file with the Revenue Department an application for a license containing the person's name, the address, or addresses, of his place, or places, of business, and such additional data as the Revenue Department may require. Upon filing said name, address and additional data, the Department shall issue a license to do business in Kentucky. It is hereby made a misdemeanor to engage or continue in business as a person operating a business made taxable under the provisions of this Act on gross receipts without obtaining and continually displaying prominently in or at said person's place of business, the license herein authorized to be issued by the Department of Revenue. In the case of a person having more than one place of business or store, or in the case of a person operating two or more places of amusement and/or entertainment, the

Department of Revenue shall issue a sufficient number of copies of the license so that one may be displayed in each place of business operated by such person.

§ 8. The administration of this Act is vested in the State Department of Revenue, which may prescribe forms and promulgate rules and regulations needed for the enforcement of this Act.

The Department of Revenue or any representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment, and/or inventory of any person, made taxable on his gross receipts under the provisions of this Act; to examine witnesses under oath for purposes involving enforcement of the Act; and to examine the books, records, papers, files, equipment and/or inventory of manufacturers, jobbers, retailers, or carriers for the purpose of determining whether the Act is being violated.

The Department of Revenue shall have the power to institute a legal proceeding by the Attorney General of the State of Kentucky, or any attorney duly authorized by him to do so, for the purpose of ascertaining the amount of tax due and of enforcing the collection thereof with penalties thereon and for the purpose of enjoining the operation of the business of the delinquent person operating a business made taxable under this Act on its gross receipts until said tax is paid.

The Department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalty and interest thereon as set out herein have an attachment against the property of distributor or garnishment of his creditors without the execution of bond, upon filing an affidavit showing the nature of the claim, that it is just, the sum which the Department believes it should recover and an indication that it believes collection of the demand will be endangered by delay in obtaining judgment or by a return of ''no property found''.

Any information obtained by the Department of Revenue, or any agent or representative thereof, as a result of the reports, investigations, or verifications herein authorized and required to be made, shall be confidential as respecting the business of any person operating a business made taxable under this Act on its gross receipts, and any person divulging such information, except on the order of a court of competent jurisdiction, or to an officer of the Commonwealth entitled to receive the information in his official capacity, shall be fined not exceeding five hundred dollars ($500.00); provided, however, that this provision shall not be construed to prevent the Department of Revenue's publishing statistics based on information thus secured, in such a manner as not to reveal data respecting the business of any particular person operating a business made taxable under the provisions of this Act on gross receipts.

The Department of Revenue shall keep a suitable record of all taxes collected under this Act, which record shall include preservation of the original returns by taxpayers for a period of not less than three (3) years.

§ 9. Every person operating a business made taxable under this Act on the gross receipts is hereby required to preserve a written record of daily gross receipts, to maintain a file of invoices of goods received for sale, and to keep such other records as the Department of Revenue may require to facilitate enforcement of this Act. On or before the 15th day of the month following the end of each month, beginning with the month after which this bill becomes a law, each retailer and each person operating a place of amusement and/or entertainment or any other business made taxable under the provisions of this Act, shall mail to, or file with the Department a verified written report of total gross receipts made during the preceding month, and shall remit with said report the amount of tax due under Sections 3a, 3b, and 3c of this Act; provided, however, that the Revenue Department, on the basis of information herein authorized to be secured, or on the basis of an audit of the return, may require additional payments if found to be due.

§ 10. No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this Act. The aggrieved taxpayer shall pay the tax as and when required, and may, at any time within two years from the date of such payment, sue the Commonwealth through its agent, the Auditor of Public Accounts, in an action at law in any court, State or Federal, otherwise having jurisdiction of the parties and subsequent matter, for the recovery of the tax paid with legal interest thereon from the date of payment.

If it is finally determined that said tax, or any part thereof, was wrongfully collected, for any reason, it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected together with legal interest thereon. The Treasurer shall pay the same at once out of the general expenditure fund of the State in preference to other warrants or claims against the Commonwealth. A separate suit need not be filed for each individual payment made by any taxpayer, but a recovery may be had in one suit for as many payments as may have been made.

§ 11. If gross receipts made taxable by this Act are received under such circumstances that the Constitution and laws of the United States, or the Constitution of Kentucky, preclude imposition of the tax, then said tax shall not apply.

§ 12. Any person who shall violate any of the provisions of this Act for which a specific penalty is not herein provided shall be deemed guilty of a misdemeanor and punished by a fine of not less than five dollars ($5.00) nor more than five hundred dollars ($500.00) for each offense.

Any person required under this Act to make returns and pay a tax who shall fail to pay the tax due in the time specified in this Act, shall be subject to a penalty equal to twenty per centum (20%) of the amount of tax due and delinquent and, in addition thereto, interest at six per centum (6%) per annum.

§ 13. The aggregate of the total of the revenue collected from the operation of this Act shall be covered through the Department of Finance into the State Treasury, and two-thirds thereof shall be credited to the general expenditure fund. The remaining one-third shall, by the Auditor of Public Accounts, on or before the 15th day of the second month following the end of each quarter, be credited to a fund to be known as the "County Road Fund", and shall distribute said fund immediately to the several counties of the Commonwealth in the following manner:

One-third of said County Road Fund shall be distributed equally among the one hundred and twenty counties of the State. One-third of the said County Road Fund shall be distributed to the one hundred and twenty counties of the State on a basis of population; that is to say that each county shall receive that proportion of said fund which its population bears to the population of the State. In determining the population of the State and the several counties, the Auditor shall use as a basis the official United States census of 1930. One-third of the said County Road Fund shall be distributed to the one hundred and twenty counties of the State on a basis of square mile area; that is to say that each county shall receive that proportion of said fund which its square mile area bears to the square mile area of Kentucky.

The treasurers of the several counties of the Commonwealth shall receive and accept the funds so transmitted to them and credit them to the road fund of their respective counties. The fiscal courts shall first direct the payment annually from the road fund to the sinking fund, all of such fund so received under this Act, or such a sum which is sufficient to make the payments upon principal and interest of the bonded indebtedness of such county created by the construction and/or maintenance of public roads, or bridges, or, if there be no bonded indebtedness, then all of the fund so received under the provisions of this Act shall be applied to the payment of the floating indebtedness created by the construction and/or maintenance of public roads and bridges in the county, and, if there be no bonded or floating indebtedness created by the construction and/or maintenance of public roads and bridges within the counties, then such funds so received by the provisions of this Act shall be expended under the orders of the fiscal courts for the construction and/or maintenance of public roads within the counties.

§ 14. This Act shall automatically expire at midnight June 30, 1938.

§ 15. All laws or parts of laws in conflict with this Act are hereby repealed to the extent of such conflict, except the Act of this 1936 Extraordinary Session of the General Assembly relating to the sales of alcoholic spirits and beverages, and on receipts derived by reason thereof; no tax is imposed upon those engaged in the business of selling alcoholic spirits and beverages as to such sales.

§ 16. It is hereby declared to be the legislative intent that the provisions of this Act are severable, and if any of its provisions, or the application thereof, shall be held unconstitutional, the decisions of the court shall not affect or impair any of the remaining provisions of this Act, it being the intenton of the Legislature that this Act would have been adopted had not such unconstitutional provisions been enacted therein.

§ 17. Whereas, the present State revenue does not meet the immediate needs of the maintenance of the State government, its agencies and subdivisions, and the State's credit is threatened with impairment, an emergency is declared to exist; and this Act shall become a law and be effective upon its passage and approval by the Governor.

By Mr. McConnell:

H. B. 31. An Act regulating raw fur dealers and providing license for same.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That all dealers in raw furs shall be required to have a license; that a resident wholesale fur dealer may secure license by making application to the County Court Clerk of the county of his residence or place of business, and paying the sum of fifteen dollars ($15.00); that a resident retail fur dealer may secure license by making application to the County Court Clerk of the county of his residence and paying the sum of two dollars ($2.00); that a non-resident fur dealer may secure license by making application to the County Court Clerk of any county and paying the sum of one hundred dollars ($100.00).

Raw furs within the meaning of this act shall be construed as meaning, any pelts, of fur-bearing animals protected by law, which have not been tanned or put through any process of manufacture.

A retail dealer within the meaning of this act shall be construed as one who buys direct from the trapper or hunter, and a wholesale dealer within the meaning of this act shall be construed as a dealer who buys from the hunter or trapper and also from retail dealers.

A non-resident within the meaning of this act, is any person who has not been a bona fide resident of this State for one year.

Before issuing a fur dealer's license the clerk shall require the applicant to file an affidavit stating his or her age, height, weight, color of hair, color of eyes, nationality and place of residence.

The clerk shall retain of the money received for such license, the sum of fifty cents (50c), which covers the swearing of the applicant and all other services under this act, and shall pay the balance to the State Treasurer on the first of each month, which amount shall be converted into the Game and Fish Protection Fund.

Any person violating any provision of this act, shall upon conviction be guilty of a misdemeanor, and shall be punished by a fine of not less than fifteen dollars ($15.00) nor more than one hundred dollars ($100.00) for each offense, to which may be added imprisonment in county jail not exceeding thirty days.

By Mr. Hammons:

H. B. 32. An Act concerning Revenue and Taxation and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That every person, firm or corporation engaged in producing, bottling or distributing in bottles or other closed containers soda water, coca-cola, pepsi-cola, chero-cola, ginger-ale, grape and other fruit juices or imitation thereof, near beer, carbonated or malt or cereal beverages and all light preparations known as soft drinks, shall not use any machine, machines and/or apparatus for the filling or bottling of the same until such person, shall have first applied for, paid for and obtained in advance from the County Clerk of the county in which said concern is located a license, the fee for which, for each machine, shall be graded or proportioned as follows: 36 spouts, or greater capacity, low pressure filler, seven hundred dollars ($700.00). 32 spouts and less than 36 spouts, low pressure filler, five hundred and seventy-five dollars ($575.00). 24 and less than 32 spouts, low pressure filler, four hundred dollars ($400.00). 18 and less than 24 spouts, low pressure filler, two hundred and seventy dollars ($270.00). 12 and less than 18 spouts, low pressure filler, one hundred and ninety dollars ($190.00). Less than 12 spouts, low pressure filler, ninety dollars ($90.00). Royal (8-head), Shields (6-head), Adriance (6-head) or other high pressure equipment having manufacturer's rating capacity of over sixty bottles per minute, seven hundred dollars ($700.00). Royal (4-head), Adriance (2-head), Shields (2-head), full equipment having manufacturer's rating capacity of over fifty and not more than sixty bottles per minute, five hundred and twenty dollars ($520.00). Royal (4-head), Adriance (2-head), Shields (2-head), (full automatic) or other high pressure equipment having manufacturer's rating capacity of more than forty and not more than fifty bottles per minute, four hundred and twenty dollars ($420.00). Dixie (automatic), Shields (20-head hand feed), Adriance (1-head), Colleson (1-head), Senior (high-pressure), Junior (high-pressure) or Burns or other high-pressure equipment having manufacturer's rating capacity of more than twenty-four bottles and not more than forty bottles per minume, one hundred and ninety dollars ($190.00). Single-head Shields, Modern Bond (power), Baltimore (semi-automatic), and all other machines or equipment having manufacturer's rating capacity of not more than twenty-four bottles per minute and all foot-power bottling machines, sixty dollars ($60.00). Provided, that any bottling machine or apparatus not herein specifically mentioned shall bear the same tax as a bottling machine or apparatus of the nearest rated capacity as herein enumerated; provided, further, that where any person has within his bottling plant or place of manufacture more than one bottling machine then such person shall pay the license herein specified upon every such bottling machine or apparatus whether in actual operation or not. The person applying for such license shall file an application, under oath, stating the name, make, model of his machine, name and address of manufacturer, whether it be low-pressure equipment or high-pressure equipment or otherwise and give its spout and/or bottling capacity.

§ 2. Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State government, an emergency is declared to exist; and this act shall become a law and be affective upon its approval by the Governor.

By Mr. Shehan:

H. B. 33. An Act relating to revenue and taxation; providing a tax on all person or persons who file a petition with the Clerk of any County Court of this State under the provisions of this Act; and amending Sections 68b-1, to and including Section 68b-37, Chapter 5, Article 3, Kentucky Statutes, Carroll's Edition, and all amendments and supplements thereto, which is entitled, ''An Act to promote and protect livestock industries in Kentucky'', providing for an election to be held in any County of this State, under the provisions of this Act to determine whether or not said Act and Sections of said Statutes shall be enforcible in the particular Counties of this State, fixing the amount of said tax, and repealing all laws or parts of laws in conflict herewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That upon the petition of one hundred (100) legal voters in any County, filed in the County Court of such County, asking a submission of the question whether or not Sections 68b-1 to and including 68b-37, Kentucky Statutes, Carroll's 1930 Edition, entitled ''An Act to promote and protect livestock industries in Kentucky,'' shall be enforcible in such County; the County Court shall direct the Sheriff of such County and officers of elections in different precincts of such County, to open a poll at the next regular election held in such County and precincts, in not less than sixty days after the filing of such petition for the purpose of ascertaining the will of the voters of such County, upon the question of whether or not they are in favor of enforcing the provisions of said Act and Section of the Kentucky Statutes, in such County, and if a majority of the votes cast favor continuing the enforcement of the said Acts and Sections then same remain enforcible in said County, otherwise said Act and Sections will not be enforcible in such County; provided, however, that any such election shall not be held oftener than four (4) years from the time of the last such election; provided that at the time such petition is filed with the County Court Clerk as provided herein that there shall be paid to such Clerk by those signing said petition or any one for them the sum of Ten Dollars ($10.00), which said sum shall be paid by any such Clerk into the general funds of the State of Kentucky.

§ 2. That no such election be held unless notice thereof be published at least twenty (20) and not more than thirty (30) days before the election in at least four issues of the paper in the County having the largest bona fide circulation; if there be no such paper in the County, or if it is impossible to have said notice printed in the time so prescribed by reasons of said paper not having four issues during the said prescribed time, then notice will be given by posting notice thereof on the County Court House door or the bulletin board of the Court House in at least one public place in the precincts of the County within at least twenty days before the election.

§ 3. That the petition filed in the County Court shall be in the following language: "We, the undersigned citizens and qualified voters of .... County, Kentucky, hereby petition the County Court of our County, to have printed upon the Ballots at the next general election the question of whether or not the provisions of the Kentucky Statutes relating to payment of taxes on dogs shall be enforcible in this County.'' The notices of such election provided for herein shall be in the following language: ''A petition having been filed with the County Court, signed by one hundred (100) citizens and qualified voters, asking that at the next regular election the question of whether or not the provisions of the Kentucky Statutes relating to taxes on dogs shall be enforcible in .... County, notice is hereby given that this question will be submitted to the voters of this County, at the regular election held on the .... day of November, 19............''

§ 4. That when an election is ordered as herein provided, the County Clerk shall have printed on the ballots for each precinct of such county the question, ''Are you in favor of the enforcement of the provisions of the Kentucky Statutes in (here state County) requiring the payment of taxes on dogs?'' A place will be provided for the voter to vote either ''Yes'' or ''No''.

§ 5. That the poll of the election held under this law shall be compared and the result announced in the manner at the time and by the persons authorized to compare the poll and declare the results in the regular election held at the same time, and the results shall be spread upon the records of the County Court at its next regular term held after the result is declared, and shall become effective as of the date it is so entered upon the records of the County Court; and the result of the election may be contested in the manner provided for the contest of elections held for County offices, except that any five persons who voted with the side receiving the smallest number of votes shall be plaintiffs or contestants and five that voted with the opposing side shall be defendants or contestees.

§ 6. All acts and parts of acts in conflict herewith, to the extent of such conflict, are hereby repealed.

By Mr. Scheben:

H. B. 34. An Act relating to revenue and taxation of slot machines and pin machines, repealing inconsistent sections, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* Whenever used in this Act, unless the context requires otherwise:

a. "Person" shall mean and include individuals, partnerships, associations, joint stock companies, and corporations.

b. "Department" shall mean Department of Revenue of the Commonwealth of Kentucky.

c. "Slot machine" shall mean and include any machine, apparatus or device which is attached or may readily be converted into one that it attached for use in such a way that, as a result of the insertion of any portion of money or coin or other object, such machine or device is caused to operate and by reason of any element of chance or of other outcome of such operation unpredictable by him, the user may receive or become entitled to receive any portion of money, credit, allowance or thing of value, or any check, slug, token or memorandum, whether of value or otherwise, which may be exchanged for any money, credit allowance or thing of value, or which may be given in trade, or the user may secure additional chances or rights to use such machine, apparatus or device even though it may, in addition to any element of chance or unpredictable outcome of such operation so sell, deliver or present some merchandise, indication of weight, entertainment or other thing.

d. "Pin machine" shall mean and include any slot machine or contrivance which releases balls or other objects subject to the control of the slot machine or contrivance, upon the insertion of a coin, token, disk, or other thing; the play of which machine or contrivance is in some measure dependent upon the skill of the player.

e. The words "dealer" or "owner" shall mean and include any person engaged in the business of buying, selling, exchanging, leasing, renting, hiring, or placing for use any slot machine or pin machine within the meaning of this Act.

§ 2. An annual license tax is imposed upon each slot machine, to be paid by the dealer or owner as hereinafter specified at the following rates:

a. Slot machines in cities of first and second class:
(1) Five cent (5c) machines, one hundred dollars ($100.00).
(2) Ten cent (10c) machines, one hundred and fifty dollars ($150.00).
(3) Twenty-five cent (25c) machines, two hundred dollars ($200.00).

b. Slot machines in all other places:
(1) Five cent (5c) machines, twenty-five dollars ($25.00).
(2) Ten cent (10c) machines, thirty dollars ($30.00).
(3) Twenty-five cent (25c) machines, fifty dollars ($50.00).

§ 3. An annual license is imposed on each pin machine to be paid by the dealer or owner as hereinafter specified at the following rates:

a. Pin machines in first and second class cities:
(1) Five cent (5c) machines, twenty-five dollars ($25.00).
(2) Ten cent (10c) machines, thirty-five dollars ($35.00).
(3) Twenty-five cent (25c) machines, fifty dollars ($50.00).

b. Pin machines in all other places:
(1) Five cent (5c) machines, ten dollars ($10.00).
(2) Ten cent (10c) machines, twenty dollars ($20.00).
(3) Twenty-five cent (25c) machines, fifty dollars ($50.00).

§ 4. The licenses hereinafter provided for, unless previously revoked shall expire on December 31 of each year.

§ 5. The administration of this Act is vested in the Department of Revenue which shall have full power to revoke the license tax hereinafter provided for, to prosecute through the Attorney General or any lawyer authorized by the Attorney General and/or the Department, any violation thereof and to provide such forms, blanks, licenses, and other papers as it may deem necessary, to promulgate such rules and regulations as it may deem necessary, for the enforcement of the provisions of this Act, to require information from any person relative to the licensing of such machines or to investigate violations of the provisions of this Act, either by examination of statements under oath and/or examination of any files, records, papers, and equipment relative to such licensing or violations, and/or other powers reasonably necessary to the enforcement of the provisions of this Act.

§ 6. Every dealer or owner of slot machines or pin machines shall make application for license for each machine to the Department of Revenue upon the forms prescribed by it and shall furnish to the Department such additional information as it may require and, in the discretion of the Department, a license may be issued.

§ 7. The Department shall have the power to determine upon the basis of information furnished to or secured by it, whether any machine shall be classed as a slot machine or a pin machine.

§ 8. a. It shall be unlawful for any person to buy, sell, exchange, lease, let, hire, or place for use any slot machine or pin machine except it be so licensed as prescribed herein.

b. It shall be unlawful for any person to permit to be operated in or on his premises or to have in his possession any slot machine or pin machine except it be so licensed.

c. Each unlicensed machine held or possessed in violation of subsection "a" and/or "b" of this Section shall constitute a separate offense.

d. Any person violating any provision of this Section shall be guilty of a misdemeanor and shall be punished by a fine of not less than $500.00 nor more than $2,000.00 or by imprisonment in the county jail for not less than six (6) months nor more than one (1) year or by both such fine and imprisonment. Provided, that in the case such violator be other than a natural person, a principal officer and/or officers responsible for such violation may be so imposed. And in addition, such machine shall be immediately confiscated.

§ 9. Any law or portions of a law which are inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

§ 10. All revenue derived from the operation of this Act shall, as collected, be covered into the State Treasury and credited to the General Expenditure Fund.

§ 11. Whereas, the present state revenue does not meet the immediate needs for the maintenance of the state government and its agencies, an emergency is declared to exist and this Act shall become a law upon its passage and approval by the Governor.

Ordered that said bills be printed and referred to the Committee on Revenue and Taxation No. 1.

Dr. Shields moved that a Committee be appointed by the Speaker pro Tem. to send a telegram of sympathy to the Speaker of this House, The Hon. John Kirtley, who has been called home on account of the illness of his father.

Said motion was agreed to.

Thereupon the Speaker pro Tem. appointed Messrs. Garnett, Shields, Myers and Milam as members constituting said Committee.

Dr. Shields moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

THURSDAY, APRIL 9, 1936.

The House was called to order by The Hon. Joe E. Robinson, Speaker pro Tem.

The House was opened with prayer by Mr. Carl Scheben of the county of Campbell.

The roll was called and the following members answered to their names, viz.:

Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
Howard G. Early
Garland Embry
Walter R. Fannin
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer

J. C. Ramey
Hobart Rayburn
L. K. Rice
Wade H. Riley
Joe E. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

Mr. Hammons moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Myers raised the point of order that under Rule 9 of this House, the Speaker pro Tem. may be designated by the Speaker of the House for the duration of five days, and that due to the illness of the father of The Hon. John Kirtley, Speaker of the House, the regularly elected Speaker of the House may be absent for an indefinite length of time, it therefore would now be in order for the House to elect a Speaker to act during the absence of The Hon. John Kirtley.

The Speaker pro Tem. ruled that the point of order as raised by Mr. Myers was well taken.

Thereupon the Speaker pro Tem. vacated the Chair and designated Mr. Gnau as Speaker pro Tem.

Mr. Myers moved that The Hon. Joe E. Robinson be elected Speaker of this House to act during the absence of the Speaker, The Hon. John Kirtley.

Said motion was agreed to.

Thereupon the Hon. Joe E. Robinson took the Chair and presided as Speaker of this House.

Mr. Conway moved that the privilege of the floor be extended Dr. and Mrs. B. F. Wright and Mr. John S. Webb.

Said motion was agreed to.

Mr. Matherly moved that the privilege of the floor be extended to Messrs. T. W. Latta and Hineman.

Said motion was agreed to.

Mr. Sidebottom moved that the privilege of the floor be extended to The Hon. L. M. Ackman of Williamstown, Kentucky.

Said motion was agreed to.

Mr. Hampton moved that the privilege of the floor be extended to Messrs. Pete Howell and Myrick.

Said motion was agreed to.

Mr. Coleman moved that the privilege of the floor be extended to Mr. C. I. Ross of Somerset, Kentucky.

Said motion was agreed to.

Mr. Pfeiffer moved that when the House adjourn today, it adjourn to meet again on Monday, April 13, at one o'clock P. M.

Said motion was agreed to.

Mr. Pfeiffer moved that the vote by which the House agreed that when it adjourns today, it adjourn to meet again on Monday, April 13, at one o'clock P. M., be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Shehan moved that the Clerk of this House be directed to have printed 1000 copies of House Bill No. 71 known as the Registration Bill which was passed during the regular session of this General Assembly, 1936.

Said motion was agreed to.

Mr. Matherly moved that all printed copies of bills be equally distributed among the members of this House.

Mr. Grogan amended the motion as made by Mr. Matherly so that all members of this House should receive ten copies of each printed bill.

The amendment as proposed by Mr. Grogan was agreed to.

Said motion as made by Mr. Matherly, was then agreed to, as amended.

The House took up for consideration the unfinished business of yesterday, to wit:

A resolution offered by Mr. Myers.

(For resolution see House Journal of yesterday.)

Mr. Myers moved that said resolution be laid on the Clerk's desk.

Said motion was agreed to.

Mr. Carter offered the following resolution, viz.:

WHEREAS, the Governor is now advocating various and divers forms of Sales Tax Measures, and

Whereas, the present members of the House of Representatives have not at this session adopted a Theme Song, and

Whereas, it is the concensus of opinion that this body should immediately adopt an appropriate Theme Song which should be sung by the entire body each day immediately after the invocation, and that the hereinafter quoted song should be adopted:

Be it therefore Resolved by the General Assembly of the Commonwealth of Kentucky:

That the following Theme Song be adopted and sung by the entire membership on each morning immediately after the delivery of the invocation, and that the Honorable Carl Sheben, Representative from Campbell County, be required to furnish the accompaniment upon the accordion.

The song as follows, to be sung to the tune of "She'll be com'n' 'round the mountain when she comes":

1. We will have the whole damn sales tax ere we leave,
We will have the whole damn sales tax ere we leave,
We have put a tax on whiskey,
We have put a tax on whiskey,
And we'll have the whole damn sales tax ere we leave.

2. We will have the whole damn sales tax ere we leave,
We will have the whole damn sales tax ere we leave,
Now he wants a tax on autos,
Now he wants a tax on autos,
And we'll have the whole damn sales tax ere we leave.

3. We will have the whole damn sales tax ere we leave,
We will have the whole damn sales tax ere we leave,
Now to put a tax on smoking,
Now to put a tax on smoking,
And we'll have the whole damn sales tax ere we leave.

4. We will have the whole damn sales tax ere we leave,
Yes, we'll have the whole damn sales tax ere we leave,
Kids will have to pay on soft drinks,
Kids will have to pay on soft drinks,
And we'll have the whole damn sales tax ere we leave.

5. We will have the whole damn sales tax ere we leave,
Yes, we'll have the whole damn sales tax ere we leave,
Then he springs a tax on earnings,
Then he springs a tax on earnings,
And we'll have the whole damn sales tax ere we leave.

6. We will have the whole damn sales tax ere we leave,
We will have the whole damn sales tax ere we leave,
They would put a tax on lighting,
They would put a tax on lighting,
And we'll have the whole damn sales tax ere we leave.

7. We will have the whole damn sales tax ere we leave,
We will have the whole damn sales tax ere we leave,
Having fun will be expensive,
Having fun will be expensive,
And we'll have the whole damn sales tax ere we leave.

8. We will have the whole damn sales tax ere we leave,
We will have the whole damn sales tax ere we leave,
Happy wants a tax on dying,
Happy wants a tax on dying,
And we'll have the whole damn sales tax ere we leave.

9. If we have the whole damn sales tax when we leave,
If we have the whole damn sales tax when we leave,
We will be the ones a'dying,
We will be the ones a'dying,
If we have any damned old sales tax when we leave.

The Speaker ruled said resolution out of order.

Ordered that an indefinite leave of absence be granted to Mr. Rice.

Mr. Brown of the Committee on Revenue and Taxation No. 1, to which the same had been previously referred, reported bills of the following titles, viz.:

H. B. 7. An Act requiring auctioneers doing business in the State of Kentucky, either residents or non-residents of the said State, to obtain a license before doing any of the said business pertaining to auctioneers, etc.

Without an expression of opinion.

H. B. 20. An Act to repeal subsection (h), Section 17, of Chapter 90 of the Acts of 1920 as amended and re-enacted by subsection (h) of Section 1 of Chapter 78 of the Acts of 1924, being an act relating to vehicles; regulating their use and operation of public highways of this Commonwealth; etc.

With the expression of opinion that said last named bill ought to pass.

Said bills were each read at length the first time and ordered to be placed on the Calendar.

Also:

H. B. 12. An Act to define oleomargarine and to prescribe regulations to govern the manufacture, storage and sale thereof; etc.

H. B. 15. An Act requiring fur dealers doing business in the State of Kentucky, either residents or non-residents of the State of Kentucky, to obtain a license and pay a tax for same before doing any of the said business.

H. B. 19. An Act imposing an excise tax on the sale of butter substitutes, providing for the collection and disposition thereof, etc.

With the expression of opinion that said bills ought not to pass.

No further action having been taken by the House and no motion having been made to advance said bills to a reading, the report of the Committee to the contrary notwithstanding, it was ordered that said bills be not read the first time at length and so said bills were rejected.

Dr. Shields moved that the session of today be extended indefinitely.

Said motion was agreed to.

Dr. Shields moved that the House do now recess until two o'clock P. M.

Said motion was agreed to.

An then the House recessed.

AFTERNOON SESSION

The hour of two o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

Mr. Brown moved that the Rules of this House be suspended for the purpose of allowing the Committee on Revenue and Taxation No. 1 to report.

Said motion was agreed to.

Thereupon Mr. Brown of the Committee on Revenue and Taxation No. 1, to which the same had been previously referred, reported a bill entitled:

H. B. 29. An Act relating to revenue and taxation, providing for an income tax, the collection and administration thereof, and declaring an emergency.

With the expression of opinion that said bill ought to pass.

Said bill was read at length the first time and ordered to be placed on the Calendar.

Dr. Shields moved that the Rules of this House be suspended for the purpose of introducing bills.

Said motion was agreed to.

Thereupon the following bill was introduced, viz.:

By Mr. Joe E. Robinson:

H. B. 35. An Act concerning revenue and taxation and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions*:

(a) The words "tobacco products" as used in this Act shall include cigars of all descriptions, cheroots, stogies, cigarettes, snuff, chewing tobacco, and smoking tobacco. Cigars, cheroots, and stogies as used in this Act shall include cigars of all descriptions made of tobacco or any substitute thereof. Smoking tobacco as used in this Act shall include all smoking tobacco including granulated, plug cut, crimp cut, ready rubbed, and other kinds and forms of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette.

(b) The word ''manufacturer'' as used in this Act means any person engaged in the manufacture or production of tobacco products.

(c) The word ''wholesaler'' as used in this Act means any person who sells at wholesale or who distributes tobacco products for the purpose of being sold at retail. The term includes any manufacturer, distributor, jobber, broker, agent, or other person, whether or not enumerated in this Section, who so sells or so distributes.

(d) The word ''person'' as used in this Act includes any individual firm, partnership, association, corporation, or other group or combination acting as a unit.

(e) The term ''retailer'' as used in this Act means any person who sells to a consumer or to any person for any purpose other than resale.

(f) The term ''Department'' as used in this Act means the Department of Revenue of the Commonwealth of Kentucky.

§ 2. There is hereby imposed on the sale of cigarettes made of tobacco or any substitute therefor one cent (1c) on each five cents (5c) or fractional part thereof of the retail selling price.

§ 3. There is hereby imposed on the sale of cigars, snuff, chewing tobacco, and smoking tobacco a tax equal to fifteen per cent (15%) of the wholesale selling price.

§ 4. The taxes imposed by this Act shall be paid by affixing stamps in the manner and at the time herein set forth. In the case of cigars and chewing tobacco, the stamps shall be affixed to the box or container in which, or from which, the same are normally sold at retail. In the event any such tobacco products are manufactured within the State of Kentucky, they shall be stamped by the manufacturer when and as sold. On such tobacco products manufactured without the State of Kentucky, wholesalers shall affix the required stamps within seventy-two (72) hours after such tobacco products are received by them. Or if received by a retailer unstamped such retailer shall affix the required stamps within twenty-four (24) hours after such tobacco products are received by him.

In the case of cigarettes, snuff, and smoking tobacco, the stamps shall be affixed to each individual package by the manufacturer of such products when and as sold, if such tobacco products are manufactured within the State of Kentucky, otherwise they shall be so stamped by wholesalers within seventy-two (72) hours after such products are received by them. If received by retailers, they shall be stamped within twenty-four (24) hours after their receipt by him.

All tobacco products must be stamped before being sold in this State.

§ 5. The stamps required herein to be affixed to the box or container in which, or from which, tobacco products are normally sold to retailers shall be so affixed that the boxes or containers cannot be opened without breaking the stamp; and it shall be so affixed as to require the continued application of steam or water to remove without opening the said box or container.

§ 6. The stamps provided for in this Act shall be purchased from the Department and from no one else. Said Department is empowered to prescribe rules and regulations governing the sale and distribution of said stamps.

§ 7. Where any tobacco products for the sale of which a tax is herein imposed are manufactured for shipment and sale without the State, the said manufacturer shall affix thereon, in the same manner as the other stamps herein provided for are required to be affixed, an export stamp to be furnished without cost by said Department. In the case of any tobacco products upon which any export stamps herein provided for be sold and shipped to a regular dealer in such article in another state for sale outside the state, the seller in this state shall be entitled to a refund of the actual amount of tax paid, upon condition that he shall make an affidavit that the goods were so sold and shipped, and shall furnish from purchaser written acknowledgment that he has received such goods and as part of said acknowledgment the amount of stamps thereon. The refund may be in the form of stamps of sufficient value to cover said refund or if the seller shall so desire the Department shall certify to the Auditor of Public Accounts the refund to which said seller is entitled, and the Auditor shall draw his order in said amount upon the State Treasury, which shall pay the said refund to said distributor.

§ 8. Whoever removes, washes, restores, alters, or otherwise prepares any of the stamps herein mentioned with intent to use or cause the same to be used after it has already been used; or whoever counterfeits such stamps or knowingly or willfully sells, offers for sale or gives away any such counterfeit, washed, restored, or altered stamp to any person; or knowingly used the same or has in his possession any washed, restored, or altered stamps which have been removed from the article to which they have been previously affixed, or any counterfeit stamp; or whoever, for the purpose of indicating the payment of tax hereunder, uses any stamp that has heretofore been used for the purpose of denoting the tax provided in this Act; or prepares, buys, sells or offers for sale, or knowingly has for sale, in his possession any counterfeit stamp shall be guilty of a misdemeanor and upon his conviction shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment for one to five years, or both.

§ 9. Any person required by this Act to affix the stamps as provided by this Act who shall fail properly to affix the stamps within the time prescribed by law, shall be required to pay as part of the tax imposed herein, one hundred per cent (100%) of the amount of the tax due to be assessed and collected by the Department as other taxes are collected, and such tax and penalty thereon shall bear interest at the rate of six per cent (6%) per annum.

Any article required by this Act to bear a stamp found in the place of business of any person engaged in selling tobacco products shall be *prima facie* evidence that such articles are intended for sale.

§ 10. The administration of this Act is vested in the Department which may prescribe rules and regulations needed for the enforcement of this Act. The Department, or any representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment, and/or inventories of any manufacturer, wholesaler, or retailer, pertaining to sales made taxable by this Act; to examine witnesses under oath with the purpose of verifying returns made by those required by this Act to make returns, or for other purposes involving the enforcement of this Act; and to examine the books, records, papers, files, equipment, and/or inventories of manufacturers, wholesalers, dealers, or carriers for the purpose of verifying the accuracy of the reports under this Act or dealing with this Act. If this Act is being violated the Department shall have power to institute legal proceedings for the purpose of regulating and enforcing the collection therefor, with interest and penalties thereon. The Department may for the purpose of collecting the amount of the tax due with interest thereon have an attachment against the property of the one from whom the tax, penalty, and interest is due or garnishment of his creditors without execution of bond upon the filing of an affidavit alleging the nature of the claim, that it is just, the sum which the Department believes the Commonwealth should recover from the defendant, and any grounds upon which the Civil Code authorizes the issuance of an attachment in civil causes.

Any information obtained by the Department or any agent or representative thereof as a result of the reports or investigations herein required to be made shall be confidential as respects the individual business. Any person divulging the information, except on order of a court of competent jurisdiction or to an officer of the Commonwealth entitled to receive the same in his official capacity, shall be fined a sum not exceeding five hundred dollars ($500), provided, that this provision shall not prevent publishing statistics of tax receipts and sales if such publication reveal information as concerning the individual business of any manufacturer, wholesaler, or retailer.

§ 11. The Department is hereby authorized and directed to prescribe the forms of the stamps herein provided for. It shall have such stamps prepared for sale in such manner as it may deem proper. Such stamps shall be sold at their face value. The methods of breaking packages and containers and the methods of affixing the stamps shall be prescribed by the Department in such way as to enforce the provisions of this measure.

§ 12. It is the intent or purpose of this Act to impose the tax herein levied one time upon the sale of tobacco products. Any tobacco products on account of which a tax has been paid shall not occasion payment of a second or other tax regardless of the number of times the tobacco products may be sold within this State.

§ 13. Every manufacturer, wholesaler, and retailer, is hereby required to preserve written records of sales made taxable by this Act, to keep invoices of commodities received by him, and to maintain other records and submit such additional reports as the Department may require for the enforcement of this Act.

§ 14. No suit shall be maintained in any court to enjoin or delay the collection of the tax herein imposed on any grounds whatever. The aggrieved party shall pay the tax under protest as when due, and may at any time within two years from the date of such payment sue the Commonwealth of Kentucky through its agent, the Auditor of Public Accounts, in an action in any court, state or federal, otherwise having jurisdiction of the parties, and subject matter for recovery of the tax so paid with interest thereon from the date of payment. If it is finally determined that said tax or any part thereof was wrongfully collected for any reason, it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasury of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected together with interest thereon, and the Treasurer shall pay the same at once out of the General Expenditure Fund of the State in preference to other warrants or claims against the Commonwealth. Separate suits need not be filed for each separate payment made, but recovery may be had in one suit for all sums paid which are not barred by the aforesaid limitation of two years.

§ 15. When any tobacco products, the sale of which is made taxable by this act, is sold or distributed under such circumstance that the Constitution and laws of the United States preclude imposition of the tax, then such tax shall not apply.

§ 16. Any manufacturer, wholesaler, or retailer who shall fail or refuse to make any return required by the Department of him or who shall refuse to permit the Department, its authorized agents or representatives to examine the books, records, papers, files, and/or equipment of such person pertaining to the business made taxable by this act, or makes an incomplete, false, or fraudulent return hereunder or who attempts to do anything hereunder to evade full disclosure of the facts or to avoid the payment in whole or in part of the tax or interest thereon due shall be deemed guilty of a misdemeanor and upon conviction shall be fined not exceeding one thousand dollars ($1,000) and in case the offender is an individual may be imprisoned in the county jail not exceeding six (6) months, or both. Such fines shall be in addition to other fines and penalties hereunder prescribed.

All the revenue derived from the operation of this act shall as collected be covered into the State Treasury and credited to the General Expenditure Fund.

§ 17. The imposition of the taxes herein provided shall not become effective until one (1) o'clock A. M., three calendar weeks from the date this act is approved by the Governor. Within twenty-four (24) hours thereafter, and before any sale is consummated, wholesalers and retailers shall affix the stamps required by this act on all tobacco products on hand and acquired before the effective date of the imposition of the taxes herein provided.

§ 18. Whereas, the present State revenue does not meet the immediate needs for the maintenance and support of the State government, an emergency is declared to exist, except as otherwise herein provided, and this act shall become a law effective upon its passage and approval by the Governor.

Ordered that said bill be printed and referred to the Committee on Revenue and Taxation No. 1.

Mr. Myers moved that the House do now agree to have an open hearing on Monday, April 13, at one o'clock on a bill entitled:

H. B. 29. (For title see House Journal of today, *ante.*)

Said motion was agreed to.

Dr. Shields moved that the House do now reconsider that vote by which the House reconsidered and laid on the table the motion by which the House agreed that when it adjourned today, it adjourn to meet again on Monday, April 13, at one o'clock P. M.

Mr. Milam moved that said motion be laid on the table

Said last named motion was disagreed to.

The yeas and nays being required thereon by Messrs. Milam and Hammons, were as follows, viz.:

Those who voted in the affirmative were—

Jas. C. Carter
James Garnett, Jr.
C. L. Hammons
G. S. Milam
John B. Mollett
Tyler Munford
W. T. Rollo
Ray O. Shehan
Chester D. Silvers
H. C. Steely
L. R. Wells
Charles Wylie

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Those who voted in the negative were—

Henry H. Allen
W. T. Baker
B. F. Bedford
Douglas Bolling
Wallace Brown
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
T. P. Fitzpatrick
G. W. Garrett
Ben Grogan
W. L. Hampton, Jr.
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
Robert E. Lee
M. T. McCarthy
T. B. McConnell
W. F. McGary
Elmer McGlothen
C. S. Matherly
Duke Mayfield
W. E. Mull
Rodes K. Myers
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Wade H. Riley
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
Henry Ward
W. G. Williams

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The motion as made by Dr. Shields was then agreed to.

The yeas and nays being required thereon by Messrs. Hammons and Milam, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen
C. W. Anderson, Jr.
W. T. Baker
H. T. Baker
B. F. Bedford
Douglas Bolling
Wallace Brown
Roscoe Claxon
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Chas. P. Farnsley
T. P. Fitzpatrick
G. W. Garrett
Ben Grogan
W. L. Hampton, Jr.
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Robert E. Lee
M. T. McCarthy
T. B. McConnell
W. F. McGary
Elmer McGlothen
C. S. Matherly
Duke Mayfield
W. E. Mull
Rodes K. Myers
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Wade H. Riley
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
Henry Ward
W. G. Williams

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Those who voted in the negative were—

Reuben J. Boling
Jas. C. Carter
Floyd Clark
James Garnett, Jr.
James T. Hamilton
C. L. Hammons
John B. Mollett
Tyler Munford
Russell O'Neill
Ray O. Shehan
Chester D. Silvers
H. C. Steely
L. R. Wells

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Without objection, the motion that when the House adjourn today, it adjourn to meet again on Monday, April 13, at one o'clock P. M. was then reconsidered.

Mr. Myers moved that a bill entitled:

H. B. 19. (For title see House Journal of today, *ante.*)

Which was reported on today by the Committee on Revenue and Taxation No. 1, with the expression of opinion that said bill ought not to pass, be advanced to a reading, the report of the Committee to the contrary notwithstanding.

Said motion was disagreed to.

Dr. Shields moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

FRIDAY, APRIL 10, 1936.

The House was called to order by the Hon. Joe E. Robinson, Speaker of the House.

The House was opened with prayer by Mr. Carl Scheben of the county of Campbell.

The roll was called and the following members answered to their names, viz.:

Henry H. Allen
H. T. Baker
W. T. Baker
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Harry Davis
Sam Dever
Stanley S. Dickson
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
W. L. Hampton, Jr.
Clyde S. Howard
Ira W. Hulette
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee

T. B. McConnell
W. F. McGary
Elmer McGlothen
John Marshall
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
W. E. Mull
Rodes K. Myers
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

Dr. Shields moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Mr. Clay moved that said motion be amended by adding "except the last three motions".

Said amendment was agreed to.

Thereupon the Clerk read the last three motions of yesterday as set out in the Journal of the House.

The motion of Dr. Shields was then agreed to.

Dr. Shields sent to the Clerk's desk the following telegram from the Hon. John Kirtley, Speaker of this House, viz.:

Dr. B. F. Shields,
House of Representatives,
Frankfort, Kentucky.

My father shows marked improvement. Unless adverse condition arises he is expected to recover. Convey our appreciation to my colleagues for their kind solicitude and thoughtfulness. Expect to return by April 13.

JOHN KIRTLEY.

Mr. Wells moved that the privilege of the floor be extended to Mr. Sterling Owens of Cynthiana, Kentucky.

Said motion was agreed to.

Mr. Dickson moved that the privilege of the floor be extended to Mr. Lawrence Price of Bourbon County.

Said motion was agreed to.

Mr. Douglas Bolling moved that the privilege of the floor be extended to Messrs. James Russell, Withers Miller, Onis Green and C. Tabor Johnston.

Said motion was agreed to.

Mr. Coleman moved that the Sergeant-at-Arms be directed to place a token of mourning on the desk of the late Clarence E. Evans, member of this House, and that said token of mourning be allowed to remain on his desk for thirty days.

Mr. Grogan moved that the Committee on Revenue and Taxation No. 1 be requested to hold an open hearing on the Tobacco Tax Bill on Wednesday, April 15.

Mr. Brown moved that said motion be amended so that the Committee would hold an open meeting on Tuesday, April 14.

Said amendment as proposed by Mr. Brown was disagreed to.

The motion as made by Mr. Grogan was then agreed to.

Mr. Myers moved that a bill entitled:

H. B. 19. An Act pertaining to an excise tax on butter substitutes, etc.

Which was reported on yesterday by the Committee on Revenue and Taxation No. 1, with the expression of opinion that said bill ought not to pass, be advanced to a reading, the report of the Committee to the contrary notwithstanding.

Mr. Silvers moved that said motion be laid on the table.

The Speaker ruled the motion as made by Mr. Silvers out of order for the reason that a roll call had been ordered on the motion as made by Mr. Myers.

The motion as made by Mr. Myers was then disagreed to.

The yeas and nays having been required thereon by Messrs. Myers and Wells, were as follows, viz.:

Those who voted in the affirmative were—

H. T. Baker
W. T. Baker
Reuben J. Boling
Ollie J. Bowen
George S. Clay
Harry Davis
Stanley S. Dickson
Chas. P. Farnsley
T. P. Fitzpatrick
James Garnett, Jr.
G. W. Garrett
Eugene Gough
Ben Grogan
James T. Hamilton
W. L. Hampton, Jr.
Clyde S. Howard
Ira W. Hulette
J. H. Jones
R. T. Kirkman
Leslie Larrimore
W. F. McGary
Elmer McGlothen
John Marshall
D. T. Matlack
Duke Mayfield
W. H. Miller
Rodes K. Myers
Ray O. Shehan
P. L. Sidebottom
W. R. Tapp
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

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Those who voted in the negative were—

B. F. Bedford
Douglas Bolling
Floyd Clark
Roscoe Claxon
J. A. Coleman
Sam Dever
Walter R. Fannin
G. S. Milam
W. E. Mull
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Wade H. Riley
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
Chester D. Silvers
Henry Stewart
J. J. Thomas
S. J. Wagner
Joseph L. Wall
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Mr. Gnau moved that when the House adjourns today, it adjourn to meet again on Monday, April 13, at one o'clock P. M.

Said motion was agreed to.

Upon a call of the Counties and Legislative Districts, the following bills were introduced, viz.:

By Mr. Garnett:

H. B. 36. An Act to raise revenue by requiring peddler truckers to pay fees and charges, to define the term peddler trucker, and to provide for the administration and enforcement of this Act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. As used in this Act:

"Department" shall mean the Department of Revenue of the State of Kentucky.

"Person" shall include individuals, partnerships, associations, corporations, and the receivers, or assignees of any of them.

''Highway'' shall include any public street, road or alley in this State whether within or without the corporate limits of any municipality.

''Peddler trucker'' shall mean any person who engages in the trade or business of transporting by motor vehicle upon the highways and of selling for himself or another, there or elsewhere, any property which he has not grown, raised or manufactured; provided, however, this Act shall not apply to, and the term ''peddler trucker'' shall not include:

(a) Any person engaged in transporting and selling only farm, forest, garden or dairy products grown, produced or raised by him or on his farm or property; and any non-profit, cooperative association engaged in transporting and selling only farm, garden or dairy products belonging to the association or its members;

(b) Any person whose principal business is regularly and continuously conducted on or in premises owned or leased by him and who, as an incident of such business, transports and sells the commodities or property manufactured or dealt with in such business;

(c) Any person engaged in transporting and selling property if and so long as each vehicle used in such transportation carries a load weighing less than two thousand pounds;

(d) Any common or contract carrier by motor vehicle as defined and regulated by the laws of this State or of the United States; provided, however, the exemption made by this paragraph (d) shall not apply for the benefit of any such contract or common carrier by motor vehicle who buys or sells any property which he transports in such motor vehicle;

(e) Any person licensed and doing business as a transient merchant in accordance with provisions of the Act of March, 1916, Chapter 111, Acts of the General Assembly of Kentucky of 1916 (Sections 4217b-1 to 4217b-10 inclusive, Carroll's Kentucky Statutes, 1930 Ed.), or who shall hereafter be licensed and do business in accordance with the provisions of said Act.

§ 2. On and after July 1, 1936, no peddler trucker shall use the highways of this State without having obtained licenses and paid the charges for the use of the highways as provided in this Act.

§ 3. Any person desiring to obtain a license to engage in business as a peddler trucker shall apply therefor in writing to the Department of Revenue on forms to be provided by that Department and in accordance with its rules and regulations, specifying:

(1) The full name and post office address of the applicant;

(2) The principal business in which the applicant is engaged, how long he has been so engaged, to what extent, if any, his business as peddler trucker will be conducted interstate, the kind of property to be sold within this State, the county or counties in which he proposes to operate as a peddler trucker, and the highways or routes to be used in the conduct of said business.

(3) A description of each motor vehicle to be used by the applicant in the conduct of his business, and with respect to each such motor vehicle, the license number and the rated and actual capacity by weight.

(4) Such other information as the Department may by regulation of general application require.

§ 4. No license shall be granted by the Department unless the application be accompanied by a filing fee of $2.00 and by the payment of the appropriate charges as hereinafter provided.

§ 5. Upon the receipt of any such application for an original license or for a renewal thereof, accompanied by the filing fee and the charges for which provision is hereinafter made, the Department shall issue to the applicant a license authorizing him to engage in business as a peddler trucker for a period expiring on December 31 of the year for which said license is issued, and shall state therein the number and kind of vehicles which the applicant is authorized to operate, and the highways or routes over which such vehicle or vehicles may be operated, and shall at the same time issue one distinguishing plate and one certified copy of the license for each vehicle which the applicant is authorized to operate. Such distinguished plate or plates and license or certified copy or copies thereof shall be used, shown and displayed as hereinafter provided.

§ 6. All licenses shall expire on December 31 of the year for which they are issued; and renewals, to be applied for on forms furnished by the Department and accompanied as in the case of the original application by a filing fee of two dollars and prescribed charges for the use of the highways, shall be secured on or before January 2 of the ensuing year. Any licenses issued on or after July 1 of any year shall be issued at one-half of the annual charge for the class for which issued, but shall be accompanied by the full filing fee. Prior to the expiration of the license, the licensee may be authorized to operate in such business one or more vehicles in addition to those originally authorized upon payment of the prescribed charge on each such additional vehicle or vehicles.

§ 7. (a) The charges required by the foregoing sections of this Act shall be based upon the manufacturer's rated capacity of the motor vehicles to be used by or for the licensee, or, if said vehicle is not so rated, upon the actual capacity by weight thereof. Charges shall be paid on each vehicle to be used by or for the licensee in his business as peddler trucker, and shall be graduated into classes, as follows:

Class A—For each vehicle with a capacity of 3½ tons or more	$80

Class B—For each vehicle with a capacity of 2½ tons or more, but less than 3½ tons	....	$60
Class C—For each vehicle with a capacity of 1½ tons or more, but less than 2½ tons	....	$40

Provided, however, the charges prescribed above shall authorize the licensee to operate the motor vehicle on which such license is paid in his business as peddler trucker in only one county. If he operates any truck or sells property from any truck in more than one county the prescribed charges on each such truck shall be increased as follows: That is to say, for each additional county he shall pay ten per cent (10%) of the charge perscribed above for operation in only one county.

(b) Any peddler trucker who files with the Department an affidavit showing that he transports and sells property exclusively in interstate commerce, in lieu of the charges prescribed in paragraph (a) of this section, may, at the time of the filing of his application for a license, file with the Department a bond, in the form and with the security to be approved by the Department, and in the penal sum of two hundred and fifty dollars ($250.00), conditioned upon his reporting to, and in the manner prescribed by, the Department, each interstate trip made by him within this State, and his paying to the Department within five days after the completion of each such trip, of a charge of one-tenth of the amount prescribed in paragraph (a) of this section to be paid annually on the class or kind of vehicle operated by him. Any person who, after filing said affidavit and bond, shall fail to make any report or pay any charge required by this section shall be guilty of a violation of this Act.

§ 8. Any peddler trucker who shall transport in any vehicle operated under this Act a load which weighs more than 125 per cent of the capacity on which the license fee has been paid, shall pay to the clerk of each county in which such excess load is transported an additional charge of $5.00 for each such excess load.

§ 9. No vehicle shall be operated by any peddler trucker unless there is fixed thereto and displayed thereon in the manner prescribed by the Department a distinguishing plate issued therefor by the Department. The license as a peddler trucker or a certified copy thereof issued by the Department shall at all times be carried on the person of the operator of any vehicle used in the business of a peddler trucker, and shall be shown on demand by any officer mentioned in Section 12 hereof. Upon proof satisfactory to the Department of the loss, mutilation or destruction of a license, certified copy thereof or a license plate, and the payment of a fee of $1.00, the Department shall issue a duplicate license, certified copy or license plate, as the case may be.

§ 10. No license shall be assigned or transferred, and no distinguishing plate shall, without the written consent of the Department, be transferred from one vehicle to another, or displayed on any vehicle other than the one for which it was issued.

§ 11. The Department is authorized to employ such clerical assistance as may be necessary to carry out and administer the provisions of this Act, and to prescribe, and provide such record books, blanks, forms, reports, receipts, distinguishing plates and licenses and any and all other supplies and equipment which may be reasonably necessary for the administration of this Act; and to pay any and all such expenses so incurred out of the fund collected under the provisions of this Act.

§ 12. Any peace officer, including sheriffs and their deputies, police officers and marshals of cities or incorporated towns, county police or patrols, and highway patrolmen or other officers duly appointed by any agency of the Commonwealth of Kentucky for the enforcement of its laws relating to motor vehicles or to highways now existing or hereafter enacted, shall be authorized, and it shall be made the duty of each of them to enforce the provisions of this Act and to make arrests for any violation or violations thereof, without warrant if the offense be committed in his presence, and with warrant or summons if he does not observe the commission of the offense. When in pursuit of an offender for any violation of this Act committed within his jurisdiction, any such officer may follow and effect an arrest beyond the limits of his jurisdiction. If the arrest be made without warrant, the accused may elect to be immediately taken before the nearest court having jurisdiction, whereupon it shall be the duty of the officer to so take him. If the accused elect not to be so taken, then it shall be the duty of the officer to require of the accused a bail-bond in a sum not less than five hundred dollars ($500.00), conditioned that the accused binds himself to appear in the court of jurisdiction at the time fixed in the bond, not however in any case later than six days from the day of arrest. In case the arrested person fails to appear on the day fixed, the bond shall be forfeited in the manner as is provided for the forfeiture of bonds in other cases. No officer shall be permitted to take a cash bond. The officer making the arrest and taking the bond shall report the same to the court having jurisdiction within eighteen hours after taking such bond.

§ 13. Quarterly courts and the judges thereof, justices of the peace and police and city judges, shall have concurrent jurisdiction with circuit courts in the trial of all offenses under this Act, committed within their respective jursidictions, and said courts shall always be open for the trial of such offenses.

Upon the request of the Department it shall be the duty of the Attorney General, or of any Commonwealth's Attorney or County Attorney, to represent within his jurisdiction and without additional compensation, the Department in any action or proceeding arising under the provisions of this Act in which it may be a party.

§ 14. Any person who shall violate any of the provisions of this Act, or who shall knowingly make any false or erroneous statement or representation to the Department with respect to any matter placed under its jurisdiction by this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five dollars ($5.00) nor more than three hundred dollars ($300.00), and each and every day that such violation shall continue shall constitute a separate and distinct offense, and upon any conviction after the first, the court may add imprisonment for not exceeding ten days, and the court or the Department may suspend or revoke such person's license to do business under this Act.

§ 15. Nothing in this Act shall be construed to prohibit or limit any city or municipality in this State in the exercise of its authority to tax, license or regulate any peddler trucker engaging in such business within its corporate limits.

The obtaining of the license herein prescribed, and the payment of the prescribed fees, shall not relieve any person from compliance with any other law of this State. If any person transports or sells any property by or through another, such other person shall, for the purposes of this Act, be considered his agent.

§ 16. If for any reason any section, subsection, sentence, clause or phrase of this Act shall be held unconstitutional, or void for any reason, such decision shall not affect the validity of any other portion of this Act.

It is hereby declared to be the legislative intent that this Act would have been adopted had such void or ineffective Section, subsection, sentence, clause or phrase not been included in this Act.

By Mr. D. T. Bolling:

H. B. 37. An Act relating to revenue and taxation for the sale of vinous and spirituous liquors repealing, amending and re-enacting the last paragraph of Section 6, Article IV, Chapter one hundred and forty-six (146), Acts of the General Assembly of 1934, codified as Section 2554b-16, Baldwin's Supplement to Carroll's Kentucky Statutes, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. There is hereby imposed a tax of seven cents (7c) upon the sale or distribution by gift or sale of spirituous liquors in containers of half pint and less in size.

§ 2. The last paragraph of Section 6, Article IV, Chapter one hundred and forty-six (146), of the Acts of the General Assembly of 1934, is hereby repealed, amended and re-enacted so that when re-enacted, it shall read as follows: "All such sales shall be in unbroken packages in either quart, one-fifth gallon, pint, and half-pint sizes, except in the case of spirituous liquors which may be sold in two-ounce (2 oz.) containers, and the same shall not be opened or the contents of any part consumed on the premises where purchased."

§ 3. Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State government and its agencies an emergency is declared to exist and this Act shall become a law and be effective on its passage and approved by the Governor.

Be it provided, however, that pending preparation of stamps and the development of other administrative plans, this bill shall be effective on such date as the Governor shall proclaim.

By Mr. Wagner:

H. B. 38. An Act to repeal, amend, and re-enact Chapter one hundred and sixty-eight (168) of the Acts of the General

Assembly of 1926 now codified as Carroll's Kentucky Statutes, 1930 Edition, Section 4019a-16, being an Act relating to revenue and taxation.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Chapter one hundred and sixty-eight (168) of the Acts of the General Assembly of 1926 now codified as Carroll's Kentucky Statutes, 1930 Edition, Section 4019a-16, being an Act relating to revenue and taxation, is hereby repealed, amended, and re-enacted, so that as re-enacted it shall read as follows:

"*Agricultural products, tax on.* (1) That an annual ad valorem tax of fifty cents on each one hundred dollars of the fair cash value of all unmanufactured agricultural products, subject to taxation, shall be paid by the owner, person or corporation assessed, which tax shall be for State purposes only, and in lieu of all other ad valorem taxes by the State, or any county, city, town or other taxing district, on such unmanufactured agricultural products wherever grown, except that cities and counties and all school districts of the State may each impose an ad valorem tax of not exceeding fifteen cents on each one hundred dollars of the fair cash value of all such unmanufactured agricultural products subject to taxation within their limits, provided that unmanufactured agricultural products actually on hand at the plants of manufacturing concerns for the purpose of manufacture, and unmanufactured agricultural products in the hands of the producer of in the hands of any agent or agency of the producer to which said products have been conveyed or assigned for the purpose of sale by the producer shall be subject to State taxation only.

(2) All State taxes collected hereunder shall be paid into the State treasury to the credit of the general expenditure fund.

(3) The assessment, the date thereof, the equalization and the collection of the tax herein imposed shall be governed by the laws applicable to other tangible personal property.

(4) If any provision of this Act is held invalid, it shall not affect in any way the other provisions of the Act, but they shall remain in full force and effect. All laws and parts of laws in conflict herewith are hereby repealed.

(5) Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State Government, an emergency is declared to exist; and this Act shall become a law and be effective upon its approval by the Governor.

By Mr. Garrett:

H. B. 39. An Act relating to revenue and taxation, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. (a) The word "person" as used in this Act includes individuals, co-partnerships, business trusts, joint stock companies and corporations; (b) the words "severing natural gas from the soil" shall be understood, for purposes of this Act, to include the production of all natural gas in the Commonwealth of Kentucky. Where the term "production of natural gas" is used it shall be interpreted as synonymous with "severed from the soil"; (c) the word "Department" shall be understood to mean "Department of Revenue of the Commonwealth of Kentucky".

§ 2. Every person, firm, corporation or association producing natural gas in this State, shall annually pay upon the privilege of severing natural gas from the soil in this State, a tax equal to two per cent (2%) of the market value of all natural gas so produced, and such tax shall be for State purposes, and in addition any county in the State may impose a like tax for road purposes, county purposes, or school purposes, not to exceed one per cent (1%) of the market value of the natural gas produced in such county, and the fiscal court of any county may levy said tax for county purposes and shall determine what fund or funds shall receive the taxes when collected, and, when natural gas is produced in any separate taxing district in a county, the fiscal court shall equitably distribute such taxes between the county and such taxing district.

§ 3. The tax hereby provided for shall be imposed when the natural gas is first transported from the well by which the gas is severed from the soil.

§ 4. Every person required to report under Section 5 of this Act, shall register as a transporter of natural gas in the clerk's office of each county of this State where wells are producing natural gas, in a book, which the Department shall provide therefor, showing the name, residence, and place of business of such transporter of natural gas, and it shall be the duty of the county clerk of each county to immediately certify to the Department a copy of each registration as made.

§ 5. Every person engaged in the transportation of natural gas in this State from the wells producing the same in the State, shall for the purposes of this Act be considered a transporter of natural gas, and every such transporter shall make a monthly verified report to the Department on or before the fifteenth (15) day of the month succeeding the month in which the natural gas is received for transportation, showing the quantity and market value of such natural gas, so received from each county in the State. Said report shall be made on blanks prescribed and furnished by the Department.

§ 6. The Department, on the basis of reports provided for in Section 5 hereof, and of any other reports and information it may secure, shall assess the value of such natural gas reported for each month, and, on or before the last day of the month in which such reports are required to be made, shall notify each transporter of natural gas so reporting of such assessment, and certify such assessment to the county clerk of each county which has reported the levy of the county tax provided for in this Act, and such county clerk shall immediately deliver a copy thereof to the sheriff of each county for the collection of such county tax. The transporter so notified of the assessment shall have until the tenth (10) day of the month following such notice in which to submit in writing to the Department any objections to such assessment, and the assessment shall become final on such twentieth (20) day of the month, and the tax be due and payable on that day.

The Department shall make the assessment of the value of the natural gas so reported by each transporter of natural gas as follows: If the report shows no sale of natural gas during the month covered by such report, then the market value of natural gas on the first business day after the tenth (10) day of the month for which the report is made shall be fixed as the assessed value of all natural gas covered by such report. If the report shows sales of natural gas during the month covered by such report, if it shows that all natural gas so reported has been sold, then the market price of such natural gas on each day of such sale or sales shall be the assessed value of all natural gas sold on such date of sale, and the total amount of the tax to be reported as the assessment on such report shall be the total of the assessment or assessments made on the basis of such sale or sales. But if such report shows that any part of the natural gas so reported remains unsold, then as to such portion remaining unsold the market value of the natural gas on the first business day after said tenth (10) day of the month following the month covered by the report shall be fixed as the assessed value of such portion of the natural gas unsold, and the total amount of the tax to be reported as the assessment on such report shall be the total of the assessments made on such sold and unsold natural gas. The department, in making its assessments, shall take into consideration transportation charges or costs.

§ 7. Every person required to make report as provided in Section 5 hereof, shall be responsible and liable for the taxes as herein set forth on all natural gas received and shall collect from the producer in either money or natural gas, the taxes imposed under the provisions of this Act; but if collection is in natural gas, such transporter is authorized and empowered to sell the same and pay said taxes by certified or cashier's check or cash to the Department or sheriff as provided in this Act.

§ 8. The Department may require reports of such import and in such forms as it may prescribe and such additional information as it may deem necessary from all producers and transporters of natural gas in addition to the reports above provided for.

§ 9. Any person required to make reports or collect and pay the taxes hereunder failing to pay such taxes with penalty or interest after becoming delinquent, or failing to make any report required by this Act for thirty (30) days after the date upon which the same is required by this Act to be made, or failing for thirty (30) days after engaging in the transportation of natural gas as set out herein to register as required hereby, shall be deemed guilty of a misdemeanor and on conviction shall be fined fifty dollars ($50.00) for each day of such failure, to be recovered by indictment or civil action; and a false report shall be deemed as a failure to report, under this Act.

§ 10. The Department is hereby charged with the enforcement of this Act and may promulgate such rules and regulations and prescribe such forms as are necessary or desirable for the enforcement of its provisions. The Department or any representative appointed by it in writing is hereby authorized to examine the books, records, papers, files, equipment and/or meters of any taxpayer pertaining to the sales utilized as evidence of value or production made taxable by this Act; to examine witnesses under oath for the purpose of verifying the accuracy of returns made by taxpayers; and to examine the books, records, papers, files, equipment and/or meters of manufacturers, wholesale dealers, or carriers (including pipe line companies) for the purpose of certifying reports made under the provisions of this Act or of determining whether or not the Act is being violated.

The Department shall have the power to institute legal proceedings for the purpose of ascertaining the amount of tax due under the provisions of this Act and to enforce the collection thereof with the penalties thereof.

The Department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalty and interest thereon, as set out herein, have an attachment against the property of the taxpayer or garnishment of his creditors, without the execution of a bond, upon filing an affidavit alleging the nature of the claim, that is is just, the sum which the Department believes the Commonwealth should recover from the taxpayer, and any of the grounds upon which the Civil Code of Practice authorizes the issuance of an attachment in civil causes.

§ 11. Any information obtained by the Department or any agent or representative thereof as a result of the reports, investigations, or verifications herein authorized to be made, shall be confidential; and any person divulging any such information, except upon order of a court of competent jurisdiction or to an official of the Commonwealth entitled to receive same in his official capacity, shall be fined not exceeding five hundred dollars ($500.00).

§ 12. No suit shall be maintained in any court to restrain or delay the collection or payment of the tax herein imposed on any ground whatever, but the aggrieved taxpayer shall pay under protest the tax as and when due and may at any time within two (2) years from the date of such payment sue the Commonwealth of Kentucky through its agent, the Auditor of Public Accounts, in an action at law in any court, State or Federal, otherwise having jurisdiction of the parties and subject matter, for the recovery of the tax so paid, with legal interest thereon from the date of payment. If it is finally determined that said tax or any part thereof was wrongfully collected, for any reason, it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected, together with interest thereon, and the Treasurer shall pay the same at once out of the General Expenditure Fund of the State in preference to other warrants or claims against the Commonwealth.

Separate suits need not be filed for each separate payment made by any taxpayer, but recovery may be had in one suit for all sums theretofore paid, which are not barred by the limitation of two (2) years herein imposed.

§ 13. If the tax due under this Act shall not be paid at the time specified in this Act, the party or parties responsible for the payment of this tax shall be subject to a penalty equal to twenty per cent (20%) of the amount of tax being delinquent and, in addition thereto, interest at the rate of six per cent (6%) per annum on both the original amount of tax and the penalty imposed in this section.

All revenues derived by the operation of this Act shall, after collected, be covered into the State Treasury and credited to the General Expenditure Fund.

§ 14. Whereas the present State revenue does not meet the immediate needs of the maintenance of the State government, its agencies and subdivisions, an emergency is declared to exist, and this Act shall become a law and be effective upon its passage and approval by the Governor.

Ordered that said bills be printed and referred to Committee on Revenue and Taxation No. 1.

The House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 7. An Act requiring auctioneers doing business in the State of Kentucky, either residents or non-residents of the said State, to obtain a license before doing any of the said business pertaining to auctioneers, etc.

H. B. 20. An Act to repeal Subsection (h), Section 17, of Chapter 90 of the Acts of 1920 as amended and re-enacted by Subsection (h) of Section 1 of Chapter 78 of the Acts of 1924, being an Act relating to vehicles; regulating their use and operation on public highways of this Commonwealth, etc.

H. B. 29. An Act relating to revenue and taxation, providing for an income tax, the collection and administration thereof, and declaring an emergency.

Ordered that said bills be read the second time.

The constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day

Mr. Davis moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

MONDAY, APRIL 13, 1936.

The House was called to order by the Honorable John Kirtley, Speaker of the House.

The House was opened with prayer by the Reverend R. B. Kelly of the Church of the Nazarene of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Herbert Cook
Sam Dever
Stanley S. Dickson
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
Mr. Speaker

Dr. Shields moved that the reading of the Journal of Friday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Hunnicut moved that the privilege of the floor be extended to Messrs. Forrest J. Alvin and Henry Milman of Covington, Kentucky.

Said motion was agreed to.

Mr. Silvers moved that the privilege of the floor be extended to Messrs. Morgan Elliott and Vertner Saxon.

Said motion was agreed to.

Mr. Rayburn moved that the privilege of the floor be extended to Messrs. Charles Reidinger and Roy Wilhoit.

Said motion was agreed to.

Mr. Munford moved that the session of today be extended indefinitely.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 20. An Act to repeal Subsection (h) of Section 17, of Chapter 90 of the Acts of 1920 as amended and re-enacted Subsection (h) of Section 1 and being an Act relating to vehicle regulating their use and operation on the public highways.

Mr. Fitzpatrick moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 7. An Act requiring auctioneers doing business in the State of Kentucky, either residents or non-residents of the said State, to obtain a license before doing any of the said business pertaining to auctioneers, fixing the amount of said license, and providing for the manner in which same are to be issued, defining auctioneers and proscribing penalties for the violation of the provisions hereof, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The word "Auctioneer" as used herein shall mean any person who shall sell at public auction any property, tangible, intangible personalty, or real property, at public outcry for another, whether upon a commmission basis, cash, percentage, or so much per day. All persons engaged in the business of auctioneer as herein provided or performing any of the duties relating to, or pertaining in any way to the sale of any of said property at public outcry shall be deemed an auctioneer.

§ 2. On and after the passage and approval of this Act, every person engaged as an auctioneer, and performing any of the duties, or carrying on the business of an auctioneer as herein defined shall apply to the Circuit Court Clerk of the County of his residence for a license which shall be known as an auctioneer's license. Said license shall be issued by the Circuit Court Clerk to the applicant for a period of one year, and all licenses so issued shall expire on the 30th day of June of any year thereafter. No license to carry on the business of auctioneer shall be issued for a longer period than one year.

§ 3. Any person desiring to engage in the business of auctioneer within this State, if he be a resident of the State of Kentucky, shall file his written application with the County Court Clerk of the County of his residence, and said application shall state whether, or not, the applicant desires to engage in the business of auctioneer in one or more counties, in the State of Kentucky. The Circuit Court Clerk of the County where said application is filed shall issue to the applicant a license to engage in the occupation of auctioneer in one or more counties of this State, as shown by the application, when the applicant has paid to the said Clerk the following license tax: If the application is for one county the applicant shall be required to pay to the said Clerk the sum of Ten Dollars ($10.00) for said license, and in addition thereto the sum of fifty cents (50c) for the issuing of same by the Clerk. If for more than one county the applicant shall pay to the Clerk the sum of Twenty-Five Dollars ($25.00) and in addition thereto fifty cents (50c) to the Clerk for the issuing of same, and if the applicant be a non-resident of the State of Kentucky, he shall pay to the said Clerk the sum of Fifty Dollars ($50.00) and in addition thereto fifty cents (50c) for the issuing of same.

§ 4. Any person obtaining a license as above set out shall be entitled to engage in the business of auctioneer in the County of his residence, except those persons who are paying license for more than one county, and non-resident auctioneers who shall be entitled to engage in the business of autioneering in any county in the State of Kentucky.

§ 5. The Circuit Court Clerk shall make monthly reports to the Auditor of Public Accounts of all licenses sold under the provisions of this Act, and shall remit to said Auditor all moneys collected by him for licenses as herein provided, and said moneys shall be covered into the State Treasury, and credited to the general fund of the State of Kentucky. Provided, however, the Circuit Court Clerk who shall have issued said license shall retain the fifty cents (50c) for each license issued, as his fee for issuing same.

§ 6. Provided, however, that nothing herein shall be deemed to require Master Commissioners of the various Circuit Courts of the Commonwealth of Kentucky, or Sheriffs, or other officers designed by the courts of this Commonwealth, or Federal or bankrupt courts to obtain license to auctioneer and sell property, and the above named shall be permitted to sell without payment of any tax, or obtaining license as provided for herein, when the above named persons are acting under, or selling the said property by virtue of an order of Court.

§ 7. Any person, persons, firms, corporations, or partnerships, or other associations who shall violate any provision of this Act, or shall in any way engage in any of the business of an auctioneer as herein defined without first obtaining a license, as provided herein, and be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than Twenty-Five Dollars ($25.00) nor more than One Hundred Dollars ($100.00). It is the intention of the Legislature at this Special Session to raise revenue for the purpose of paying the State's indebtedness, and the current operating expenses of the State Government, and whereas the State of Kentucky now is in serious need of revenue to pay the operating expenses of the government, an emergency is hereby declared to exist, and this Act shall become effective immediately upon the passage and approval by the Governor.

All laws in conflict herewith are hereby expressly repealed.

Mr. Larrimore moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
C. W. Anderson, Jr.
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Floyd Clark
George S. Clay
J. A. Coleman
Herbert Cook
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Ira W. Hulette
John M. Hunnicut
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
Mel Petry
A. W. Pfeiffer
Harry C. Records
L. K. Rice
Wade H. Riley
W. T. Rollo
Carl Scheben
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
J. J. Thomas
R. Van Bever, Jr.
Joseph L. Wall
Henry Ward
L. R. Wells

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Those who voted in the negative were—

Roscoe Claxon
Sam Dever
Ben W. Johnson
J. C. Nickell
J. C. Ramey
John C. Robinson
Carl Schneider
W. G. Williams
Charles Wylie

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Mr. Hunnicut moved that the vote by which said bill was passed be reconsidered.

Said motion was agreed to.

Mr. Garnett moved that the vote by which the Previous Question was ordered, be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Garnett offered the following amendment to said bill, viz.:

Amend H. B. 7 by striking therefrom the word ''county'' on page 2, line 3, Section 3 of the printed bill, and inserting in lieu thereof the word ''Circuit''.

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
C. W. Anderson, Jr.
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Floyd Clark
J. A. Coleman
Herbert Cook
Howard G. Early
Garland Embry

Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Ira W. Hulette
John M. Hunnicut
J. H. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Mel Petry
A. W. Pfeiffer
Harry C. Records
L. K. Rice
Wade H. Riley
W. T. Rollo
Carl Scheben
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
J. J. Thomas
R. Van Bever, Jr.
Henry Ward
L. R. Wells

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Those who voted in the negative were—

George S. Clay
Sam Dever
Price Holbrook
J. C. Nickell
J. C. Ramey
Hobart Rayburn
John C. Robinson
Carl Schneider
W. G. Williams

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Resolved that the title thereof be as aforesaid.

Mr. Larrimore moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Clark moved that the privilege of the floor be extended to Mr. Emery Wilson of Carlisle, Kentucky.

Said motion was agreed to.

Mr. Munford moved that the House do now resolve itself into the Committee of the Whole House for the purpose of hearing proponents and opponents of the Income Tax Bill.

Said motion was agreed to.

Thereupon the Speaker vacated the Chair and designated Dr. Shields as Chairman of the Committee of the Whole House.

After a time the Speaker having resumed the Chair, Dr. Shields of the Committee of the Whole House, reported that the Committee had heard arguments by proponents and opponents of the Income Tax Bill and also reported progress.

Dr. Shields moved that the Rules of this House be suspended for the purpose of allowing the Committee on Revenue and Taxation No. 1 to report.

Said motion was agreed to.

Thereupon Mr. Brown of the Committee on Revenue and Taxation No. 1, to which the same had been previously referred, reported a bill entitled:

H. B. 37. An Act relating to revenue and taxation for the sale of vinous and spirituous liquors repealing, amending and re-enacting the last paragraph of Section 6, Article IV, Chapter 146, Acts of the General Assembly of 1934, codified as Section 2554b-16, Baldwin's Supplement to Carroll's Kentucky Statutes, and declaring an emergency.

With the expression of opinion that said bill out to pass.

Said bill was read at length the first time and ordered to be placed on the Calendar.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 29. An Act relating to revenue and taxation, providing for an income tax, the collection and administration thereof, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* For the purpose of this Act, and unless otherwise required by the context:

(a) The word "person" includes individuals, co-partnerships, business trusts, joint stock companies, fiduciaries, and corporations.

(b) The word "taxpayer" includes any person, corporation, partnership, association, trust or estate required by this Act to pay tax and/or to file reports.

(c) The word "partnership" includes all co-partnerships, whether general or special, and whether limited or unlimited; it includes also all joint enterprises.

(d) The word "individual" means all natural persons whether married or unmarried, and also all trusts, estates and fiduciaries acting for other persons; it does not include corporations or partnerships acting for or in their own behalf.

(e) The words "taxable year" mean the calendar year or the fiscal year ending during such calendar year upon the basis of which the net income is computed under this Act. The term "taxable year" includes, in the case of a return made for a fractional part of a year under the provisions of this Act, the period for which such return is made.

(f) The words "fiscal year" mean an accounting period of twelve (12) months ending on any day of any month other than December 31.

(g) The word "resident" applies only to natural persons and includes, for the purpose of determining liability to the taxes imposed by this Act upon the income of any taxable year, every person domiciled in this State on the last day of the taxable year, and every other person who, for more than six (6) months of the taxable year, maintained his place of abode within this State, whether domiciled in this State or not. But any person who, on or before the last day of the taxable year, changes his place of abode to a place without this State, with the *bona fide* intention of continuing actually to abide permanently without this State, shall be taxable the same as a non-resident is taxable under this Act. The fact that a person who has changed his place of abode, within six (6) months from so doing, again resides within this State, shall be *prima facie* evidence that he did not intend permanently to have his place of abode without this State. Such person not having returned his income for taxation as a resident of this State shall be deemed to have resided on the day when such income should have been listed at his last place of abode within this State. The fact that a person whose place of abode during the greater portion of such twelve (12) months has been within this State does not claim or exercise the right to vote at public elections within this State, shall not, of itself, constitute him a non-resident of this State within the meaning of this Act.

(h) The word "dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members whether such distribution be made in cash, or in other property, other than stock in the corporation. It includes such portion of the assets of a corporation distributed at the time of dissolution as are in effect a distribution of earnings.

(i) The word "include" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(j) The word "Department" means the Department of Revenue of Kentucky, and "Commissioner" means the Commissioner of Revenue.

§ 2. *Gross income and exclusions therefrom.* The term "gross income," as used herein, includes gains, profits and income derived from salaries, wages, or compensation for personal services of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales or dealings in property, whether real or personal, growing out of the ownership, or use, or interest in such property (but income realized or loss sustained from the sale of property held two years or more, other than property items customarily included in an inventory, shall be ignored in computing income for purposes of this Act); also from rent, royalties, interest, dividends, securities or transactions of any business carried on for gain or profit, or gains or profits and income derived from any source whatever, including gains or profits and income derived through estates or trusts by the beneficiaries thereof, whether as distributive or as distributable shares. The amount of all such items shall be included in the gross income for the taxable year in which received by the taxpayer, unless under the methods of accounting permitted herein, such amounts are to be properly accounted for as of a different period; but the term "gross income" does not include the following items, which shall be exempt from taxation under this Act:

(a) The proceeds of life insurance policies paid by reason of the death of the insured, but interest thereon shall be assessed under the provisions of this Act;

(b) Amounts received (other than amounts paid by reason of the death of the insured) under life insurance, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract, equal to the total amount of premiums paid thereon; provided, however, that in the case of annuities either for life or for a fixed term, the excess value thereof over amount of premiums paid, derived through application of the life expectancy (under the United States Mortality Tables) or the number of years of the fixed term, shall not be exempt and shall, for the purpose of computing the annual taxable income, be divided by the number of years such annuities are payable. The annual income so computed shall be taxable as is other income.

(c) The value of property acquired by gift, bequest, devise or inheritance received during the year; but the income received by reason of such gift, bequests, devises and inheritances shall be assessed under the provisions of this Act;

(d) Any amount received through accident or health insurance or under the workmen's compensation act for personal injuries or sickness, and the amount of any damages received, whether by suit or agreement, on account of such injuries or sickness;

(e) Interest upon obligations of the United States or of this State and interest upon securities issued under the provisions of any of the instrumentalities of the federal government; and

(f) Salaries, wages and other compensation received from the United States by officers or employees thereof.

§ 3. *Deductions.* (1) Taxpayers reporting income as prescribed by this Act shall be allowed the following deductions:

(a) All ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation paid for personal services actually rendered in producing the taxable income;

(b) All interest paid or accrued within the taxable year on indebtedness incurred or continued for the purpose of earning income subject to taxation under this Act;

(c) Property taxes, poll taxes, and corporation franchise or license taxes paid to the Commonwealth of Kentucky, its taxing subdivisions, or its municipalities;

(d) Loss sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in trade or business, the income from which is subject to taxation under this Act;

(e) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in any transaction entered into for profit which profit would be subject to taxation under this Act, though not connected with the trade or business;

(f) Losses sustained during the taxable year of property not connected with the trade or business (but in the case of a taxpayer other than a resident, only of real praperty or tangible personal property having a permanent situs in this State), if arising from fire, storms, shipwrecks or other casualty or from theft and not compensated for by insurance or otherwise;

(g) Debts ascertained to be worthless and charged off within the taxable year. In the case of a debt existing on the effective date of this Act no more than its fair market value on that date shall be deducted. A worthless debt arising after the effective date of this Act from unpaid wages, salary, sales, rent or any similar item of taxable income is not an allowable deduction unless the income which said item represents has been included as income by the taxpayer in a return rendered under this Act. In the case of taxpayers who keep regular books of account on an accrual basis and according to standard accounting practice, there may be deducted, in lieu of the foregoing, additions to reserves for bad debts, under such rules as the Department may prescribe; if said Department at any time shall deem the reserve excessive, it may restore such excess to income either in a subsequent year or as a part of the income of the taxable year and assess it accordingly;

(h) The actual amount paid during the taxable year for repairs to and maintenance of buildings and machinery, provided that no deductions shall be made for any repair which is chargeable to residence property occupied by its owner, or for depreciation thereof; and the annual value of the estimated rental thereof shall not be included in the income subject to taxation.

(i) All fire, tornado and casualty insurance premiums paid during the taxable year in connection with property held for investment or business.

(j) A reasonable allowance for exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence.

(k) Dividends received during the taxable year upon stock of national banks and dividends received during the taxable year upon stock of banks and trust companies organized under the laws of this State.

(l) Contributions or gifts made by individuals within the taxable year to or for the use of: (1) this State, its institutions, or any municipality or taxing subdivision of the State for exclusively public purposes; (2) any corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes exclusively in Kentucky, no part of the net earning of which inures to the benefit of any private shareholder or individual; (3) posts or organizations of war veterans or auxiliary units or societies of any such posts or organizations if such posts, organizations, units, or societies of any such posts or organizations if such posts, organizations, units, or societies, are organized in Kentucky and if no part of their net earnings inures to the benefit of any private shareholder or individual; or (4) a fraternal society, order, or association, operating under the lodge system, but only if such contributions or gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes in Kentucky to the amount which in all the above cases combined does not exceed fifteen per cent (15%) of the taxpayer's net income as computed without the benefit of this subsection. Such contributions or gifts shall be allowable as deductions only if verified under the rules and regulations prescribed by the Department.

Whenever transactions are made between husband and wife, parent and child, brothers, sisters, or brother and sister which transactions result in so-called losses that would if allowed reduce the taxpayer's net income in such a way as to decrease the tax due the State of Kentucky, then such so-called losses shall not be deductible, such sales being *prima facie* mere transfers within the family and not as giving rise to such losses as are intended to be deductible under this Act.

§ 4. *Deductions not allowed.* In computing net income no deduction shall be allowed in any case in respect of:

(a) Personal, living, or family expenses;

(b) Any amount paid out for new buildings or new machinery for permanent improvements or betterments, or for any other capital outlay made to increase the value of any property or estate;

(c) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made;

(d) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy;

(e) Losses from wagering transactions.

§ 5. *Net income.* The term "net income" means the gross income of a taxpayer less the deductions allowed by this Act.

§ 6. *Gains from sale of assets.* Gains or losses from the sale or other disposition of property, real or personal or mixed shall be treated for purposes of this Act as all other income or loss if such property be disposed of within two (2) years from the time acquired, as provided in Section 2 hereof. The basis for computing such gain or loss shall be the cost or, if acquired by some means other than purchase, the fair market value thereof at the time acquired.

§ 7. *Exchanges.* Where property is exchanged for other property, the property received in exchange, for the purpose of determining the gain or loss, shall be treated as the equivalent of cash to the amount of its fair market value; but when in connection with the reorganization, merger or consolidation of a corporation a taxpayer receives in place of stock or securities owned by him, new stock or securities of the reorganized, merged or consolidated corporation, no gain or loss shall be deemed to occur from the exchange until the new stock or securities are sold or realized upon and the gain or loss is definitely ascertained, until which time the new stock or securities received shall be treated as taking the place of the stock and securities exchanged.

§ 8. *Accounting period and changes therein.* (1) The income of the taxpayer shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer, but if no such method of accounting has been employed, or if the method employed does not clearly reflect the true income of the taxpayer, the computation shall be made upon the basis, and in such manner, as in the opinion of the Department does clearly reflect the true income. If the taxpayer's annual accounting period is other than a fiscal year, so defined in this Act, or if the taxpayer has no annual accounting period, or does not keep books, the net income shall be computed on the basis of the calendar year.

(2) If the taxpayer makes a federal income tax return his income shall be computed for purposes of this Act on the

basis of the same calendar or fiscal year as in such federal income tax return.

(3) If a taxpayer, with the approval of the Department, changes his accounting period from a fiscal year to a calendar year, from calendar year to fiscal year, or from one fiscal year to another, the income shall be computed on the basis of such new accounting period, subject to the following provisions:

(a) If a taxpayer changes the basis of computing net income from fiscal year to calendar year, a separate return shall be made for the period between the close of the last fiscal year for which return was made the following December thirty-first. If the change is made from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the first succeeding date designated as the close of the fiscal year. If the change is made from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the first succeeding date designated as the close of the new fiscal year.

(b) If a return is made by an individual for a period of less than one (1) year, the net income, computed on the basis of the period for which separate return is made, shall be placed on an annual basis by multiplying the amount thereof by the number of days in the year and dividing by the number of days included in the period for which the separate return is made. The tax payable shall be such part of the tax computed on such annual basis as the number of days in such period is of the number of days in the year.

§ 9. *Information returns.* (1) Every corporation subject to the jurisdiction of this State, unless excused by the Department, shall render a correct return, duly verified under oath, of its payments of dividends to residents of this State, stating the name and address of each shareholder, the number of shares owned by him, and the amount of dividends paid to him.

(2) Every person subject to the jurisdiction of this State, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiudciaries, and employers making payment to another person (domiciled in this State), of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable gains, profits, and income of six hundred dollars ($600.00) or more in any taxable year, or, in the case of such payments made by the Commonwealth of Kentucky and its political subdivisions, the officers or employees of this State or of its political subdivisions having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Department, under such regulations and in such form and manner and to such extent as may be prescribed by it, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payments. Be it provided that the Department may require any person to make information returns respecting non-residents it believes to be subject to tax under this Act. Such returns may be required, regardless of amounts, in the case of payments of dividends or interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations. (When necessary to make effective the provisions of this section the name and address of the recipient of the income shall be furnished upon demand of the person paying the income.) The provisions of this section shall not apply to the payment of interest on obligations of the United States or of this State.

§ 10. *Copy of federal return may be required.* Whenever in the opinion of the Department it is necessary to examine the federal income tax return or a copy thereof of any taxpayer in order properly to audit the returns of such taxpayer, the Department shall have the right to compel the taxpayer to produce for inspection a copy of such return and all statements and schedules in support thereof.

§ 11. *Secrecy of returns; reciprocity; statistics.* (1) Except in accordance with proper judicial order and except to an officer of the State having a right thereto in his official capacity, it shall be unlawful for any officer or employee to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return under this Act.

(2) In the event the United States government or any other state allows this State's officials to examine its income tax returns, or any class thereof, then this State, upon application by the proper authorities of the United States or such other state, to the Department, shall allow the proper officials of the United States government or of such other state, whose official duties require them to make such inspection, to inspect the income tax returns of such corresponding class of such income tax returns made to this State.

(3) Nothing herein shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports and the items thereof, or of the publication of delinquent lists showing the names of taxpayers who have failed to pay their taxes at the time and in the manner provided by law, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes; or the inspection by the attorney general or other legal representatives of the State of any return or report of any taxpayer.

(4) An offense against the provisions of this section shall be punished by a fine not exceeding one thousand dollars ($1,000), by confinement in jail for not more than six (6) months, or by both such fine and imprisonment.

§ 12. *Returns to be preserved.* Reports and returns received by the Department under the provisions of this Act shall be preserved for three (3) years and thereafter until the Commissioner orders them to be destroyed.

§ 13. *Exemptions.* The following exemptions, chargeable against the first bracket or brackets of income, shall be allowed to individuals reporting income as required by this Act:

(1) In case of a single person, or a married person not living with husband or wife, the personal exemption shall be one thousand dollars ($1,000); in case of a husband and wife, living together, the personal exemption shall be two thousand dollars ($2,000). For each person (other than the husband or wife) dependent upon and receiving his chief support from the taxpayer during the taxable year if such dependent person is under eighteen years of age or is incapable of self-support because mentally or physically defective, the personal exemption shall be three hundred dollars ($300.00). A husband and wife living together shall receive but one personal exemption of two thousand dollars ($2,000) against their aggregate income. A husband and wife not living together shall make separate returns; and a husband and wife living together shall make a joint return, or may make separate returns if submitted together; provided, that if husband and wife living together make separate returns their incomes shall be aggregated for the purpose of computing the tax due. (If husband and wife have separate incomes, they may divide the tax between them, in proportion to income.)

(2) If the status of the taxpayer, insofar as it affects personal exemption or credit for dependents, changes during the taxable year, the personal exemption and credit shall, be apportioned in accordance with the number of days before and after such change.

§ 14. *Imposition of tax.* (1) A tax is hereby annually levied for each taxable year upon every resident individual of this State upon his entire net income as herein defined for purposes of taxation (subject to exemptions provided in Section 13) at the following rates:

(a) Two per cent (2%) of the amount of such net income not exceeding three thousand dollars ($3,000);

(b) Three per cent (3%) of the amount of such net income in excess of three thousand dollars ($3,000), but not in excess of four thousand dollars ($4,000);

(c) Four per cent (4%) of the amount of such net income in excess of four thousand dollars ($4,000), but not in excess of five thousand dollars ($5,000);

(d) Five per cent (5%) of the amount of such income in excess of five thousand dollars ($5,000).

(2) A like tax is hereby annually levied for each taxable year at the rate specified in this section upon and with respect to the entire net income (except as herein provided) from all property owned and from business, trade, profession, or occupation carried on in this State by natural persons not residents of this State. But a non-resident individual receiving income from labor performed, business done, or property located in this State, and income from labor performed, business done or property located outside of this State, shall be taxable only upon the amount of income received by such taxpayer from labor performed, business done, or property located within this State. The remainder of the income received by him shall be deemed non-taxable by this State.

In the case of non-residents and of residents who receive credits on account of income taxes paid in other states, the personal exemptions allowable under this Act shall be that proportion of those permitted under Section 13 which is represented by the ratio of the taxpayer's net income in Kentucky to his total net income from all sources.

In the case of a non-resident who derives income from sources in Kentucky, the Commissioner shall require not to exceed five per cent (5%) of the income of said non-resident to be withheld by the employer or other person making payments to said non-resident for the purpose of satisfying the Commonewalth's income tax claim. On failure to withhold said tax or to remit to the department within thirty (30) days, the employer or other person hereby charged with the duty of withholding said tax is hereby made personally liable for said tax and for penalty and interest thereon as provided herein. After the non-resident shall have submitted his annual return and it shall have been audited, the Department shall refund any over-payment with interest at six per cent (6%) per annum from the date received until certified for refund.

(3) Every domestic corporation organized under the laws of this State and every foreign corporation doing business in this State (except state and national banks and trust companies, insurance companies, and religious, educational, charitable and other corporations not organized or conducted for pecuniary profit) shall pay for each taxable year a tax to be computed by the Department upon the entire net income of such corporation, derived from business done, property located or sources in this State; and such tax is hereby annually levied for each taxable year at the rate of four per cent (4%) of the entire net income of the corporation or the portion thereof taxable within the State, determined as provided in this Act.

§ 15. *Credits allowed residents.* Whenever a resident individual of this State has become liable for income tax to another state upon his net income, or any part thereof, for the taxable year, derived from sources without this State and subject to taxation under this Act, the amount of income tax payable by him under this Act shall be credited on his return with the income tax so paid by him to such other state upon his producing to the proper assessing officer satisfactory evidence of the fact of such payment; provided, however, that application of such credits shall not operate to reduce the tax payable under this Act to an amount less than would have been payable were the income from such other state ignored. The credit provided for by this section shall not be granted to a taxpayer when the laws of another state, under which the income in question is subject to tax assessment, fail to provide for a credit to such taxpayer substantially similar to that granted by Section 16 of this Act.

§ 16. *Credits allowed non-residents.* Whenever a non-resident individual of this State has become liable for income tax to the state where he resides upon his net income for the taxable year, derived from sources within this State and subject to taxation under this Act, the amount of income tax payable by him under this Act shall be credited with such proportion of the tax so payable by him to the state where he resides as his income subject to taxation under this Act bears to his entire income upon which the tax so payable to such other state was imposed; provided, that such credit shall be allowed only if the laws of said state (a) grant a substantially similar credit to residents of this State subject to income tax under such laws, or (b) impose a tax upon the personal incomes of its residents derived from sources in this State and exempt from taxation the personal incomes of residents of this State. No credit shall be allowed against the amount of the tax on any income taxable under this Act which is exempt from taxation under the laws of such other State.

§ 17. *Who shall make individual returns.* Every individual having a net income for the taxable year of one thousand dollars ($1,000) or over, if single, or if married and not living with husband or wife, and every individual having a net income for the taxable year of two thousand dollars ($2,000) or over, if married and living with husband or wife, shall make to the Department under oath a return stating specifically the items of his entire income and the items which he claims as deductions and exemptions allowed by this Act; provided, however, that every individual having a gross income for the taxable year of fifteen hundred dollars ($1,500) or over, if single or if married and not living with husband or wife, and every individual having a gross income for the taxable year of three thousand dollars ($3,000) or over, if married and living with husband or wife, shall make such a sworn return. If the individual is unable to make his own return, the return shall be made by a duly authorized agent.

§ 18. *Corporations to make returns.* Every corporation doing business in Kentucky, except those exempt from taxation under Section 14, shall make a return stating specifically the items of income and the items claimed as deductions allowed by this Act.

Corporations which are affiliated must each make separate returns.

§ 19. *Supplementary returns by affiliated corporations.* In the case of a corporation doing business in Kentucky which carries on transactions with stockholders or with other corporations related by stock ownership, by interlocking directorates, or by some method not specified here, the Department shall require information necessary to render possible accurate assessment of the income derived by the corporation doing business in Kentucky from sources within this State. To make possible such assessment, the Department may require such corporation doing business in this State to file supplementary returns showing information respecting the business of any or all individuals and/or corporations related by one or more of these methods to the corporation doing business in Kentucky. The Department may require such report to show in detail the record of transactions between the corporation doing business in Kentucky and any or all other related corporations or individuals.

§ 20. *Verification of corporation and partnership returns.* Every corporation or partnership return and/or report required by this Act shall have annexed thereto the affidavit of the president, vice-president, secretary, treasurer, assistant secretary or assistant treasurer, and the chief accounting officer of the corporation or the affidavit of a member of the partnership to the effect that the statements contained therein are true. The Department may require a further or supplemental report under this Act to contain further information and data necessary for computation of the tax herein provided.

§ 21. *Penalty for failure to make return.* (1) Any person who fails to make any report or return required by this Act within the time required shall pay a penalty of ten per cent (10%) of the tax found to be due but in no case less than ten dollars ($10.00) to be assessed and collected in the manner provided for the assessment and collection of taxes under this Act, or in a civil action, at the instance of the Department; and in addition such delinquent may be compelled to make such report or return. Any officer of any corporation or any other person who makes a fraudulent return or statement with intent to defeat or evade the payment of the taxes prescribed by this Act shall be deemed guilty of perjury and punished accordingly and shall in addition thereto pay the same penalty as in this section provided for failure to make returns on time.

(2) The circuit court of Franklin County shall have jurisdiction of all causes under this Act except as the Constitution of Kentucky may provide otherwise.

§ 22. *Taxpayer to make return whether return form is sent or not.* Blank forms of returns for income shall be supplied by the Department which shall deliver them to the taxpayers not later than February fifteenth of each year. It shall be the duty of the Department to obtain an individual income tax return from every taxpayer who is liable under the law to file such a return; but this duty shall in no manner diminish the obligation of the taxpayer to file a return without being called upon to do so.

§ 23. *Department to administer.* (1) The Department of Revenue is hereby authorized and required to administer the provisions of this Act. For this purpose it shall have power and it shall be its duty to promulgate such regulations and to prescribe such forms as may be necessary for the enforcement of the Act. It is hereby made the duty of the Department to prescribe forms identical with those utilized by the federal government except to the extent required by differences between this Act and its application and the federal act and its application. It is also made the duty of the Department to apply as far as practicable the administrative and judicial interpretations of the federal income tax law. It is declared to be the intent of the General Assembly that computations of income for purposes of this Act shall be as nearly as practicable identical with the calculations required for federal income tax purposes.

(2) Every taxpayer liable to any tax imposed by this Act shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations as the Department from time to time may prescribe. Whenever the Department judges it necessary, it may require any taxpayer, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the Department deems sufficient to show whether or not such taxpayer is liable to tax under this Act; and the extent of such liability.

(3) The Commissioner or his authorized agent or representative, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the taxable income of any taxpayer, shall have power to examine any books, papers, records, or memoranda, bearing upon the matters required to be included in the return, and may require the attendance of the taxpayer or of any other person having knowledge in the premises, and may take testimony and require proof material for its information, with power to administer oath to such person or persons.

(4) The Commissioner may, with prior approval of the Governor in writing, appoint and remove a director of income taxation (who shall head the division of income taxation hereby established in the Department of Revenue) and such other

officers, agents, and employees as it may deem necessary for the enforcement of this Act, such persons to have such duties and powers as the Department from time to time may prescribe; provided, however, that the director of income taxation and not less than two employees must be accountants and graduates of recognized four-year colleges or universities.

(5) The Department may require such of the officers, agents, and employees as it may designate, to give bond for the faithful performance of their duties in such sum and with such sureties as it may determine; and all premiums on such bonds shall be paid by the Department out of monies appropriated for the purpose of administering this Act.

(6) The Department shall have power to institute legal proceedings by the Attorney General or by other counsel approved by him for the purpose of ascertaining the amount of tax due under the provisions of this Act and to enforce the collection thereof and penalties and interest thereon. The Department may, at or after the commencement of an action for the purpose of collecting the amount due, have an attachment against the property of the taxable person or garnishment of his creditors without execution of a bond upon filing an affidavit alleging the nature of the claim, that it is just, the sum which the Department believes the State should recover, and any of the grounds on which the Civil Code of Practice authorizes the issue of an attachment in civil proceedings.

§ 24. *Time of returns.* A return of income for the preceding taxable year shall be made on or before the fifteenth day of April in each year, except that such returns, if made on the basis of a fiscal year, shall be made on or before the fifteenth day of the fourth month following the close of the fiscal year.

§ 25. *Extension of time for filing returns.* The Department may grant a reasonable extension of time for filing income returns whenever in its judgment good cause exists and shall keep a record of every such extension. Except in case of a taxpayer who is abroad, no such extension shall be granted for more than six (6) months, and in no case for more than one (1) year. In the event time for filing a return is deferred, the taxpayer is hereby required to pay, as part of the tax, an amount equal to six per cent (6%) per annum on the tax ultimately assessed from the time the return was due till it is actually filed in the office of the Department.

If any report or return required by this Act be not made as herein required, the Department is authorized to make an estimate of the net income of such corporation and of the amount of tax due under this Act, from any information in its possession, and to assess the tax at not more than twice the amount estimated to be due and to require payment of the taxes, penalties and interest due to the State from such person as thus assessed.

§ 26. *Revisions and appeals.* As soon as practicable after each return is received, the Department shall examine and audit it. If the amount of tax computed by the Department shall be greater than the amount returned by the taxpayer, the excess shall be assessed by the Department (within three years from the date the return was originally due or filed, except in the case of failure to file a return or of a fraudulent or incomplete return in which case the excess may be assessed at any time); and a notice thereof shall be mailed to the taxpayer. In the event the taxpayer is dissatisfied with his assessment, he may within thirty (30) days from the date of notice, apply to the State Tax Commission for a hearing. The Tax Commission shall set a date within a reasonable time for a public hearing; and, on the basis of the law and the facts, the Tax Commission shall sustain the original assessment or make a new assessment. The determination by the Tax Commission shall be prima facie evidence of the amount of the tax due, and the Department shall give the taxpayer written notice of the assessment of tax, interest, and penalties. The taxpayer shall remit to the Tax Commission within sixty (60) days. Nothing herein shall prevent the taxpayer from appealing by petition in equity within sixty (60) days to the Franklin Circuit Court, from the decision by the Tax Commission. Either party may appeal to the Court of Appeals in the manner provided by law.

§ 27. *Refunds.* In the event any person pays more tax than is found to have been due, the Department shall refund the over-payment in the same manner that other claims on the State treasury are paid. In the event the over-payment results from an error on the part of the Department or its agent, but not otherwise, the refund shall be paid with interest at six per cent (6%) per annum.

§ 28. *Time of paying tax.* The full amount of the tax payable by any taxpayer, as the same shall appear from the fact of the return, shall be paid to the Department at the time fixed herein for filing returns; provided, however, that any taxpayer who desires to do so may defer payment of one-third of the amount shown by the return to be due until the fifteenth day of the seventh month following the end of the taxable year and an additional one-third until the fifteenth day of the eleventh month following the end of the taxable year, but such deferred payments shall be subject to interest at the rate of six per cent (6%) per annum from the date the return is due until paid. In the event additional amounts are found to be due after the return has been filed, such amounts shall likewise be subject to interest at six per cent (6%) per annum from the time the return was originally due until payment is actually made to the Department.

§ 29. *Estates and trusts.* (1) The tax imposed by this Act upon individuals shall apply to estates and trusts and to every fiduciary of whatever character, which tax is hereby levied annually upon and with respect to the income of estates or of any kind of property held in trust, including:

(a) Income received by estates of deceased persons during the period of administration or settlement of the estate;

(b) Income accumulated in trust for the benefit of an unborn or unascertained person or persons with contingent interests;

(c) Income held for future distribution under the terms of the will or trust;

(d) Income which is to be distributed to the beneficiaries periodically, whether or not at regular intervals, and the income collected by a guardian of an infant to be held or distributed as the court may direct; and

(e) Income of an estate during the period of administration or settlement permitted by subdivision (3) of this section to be deducted from the net income upon which the tax is to be paid by the fiduciary.

(2) The fiduciary shall be responsible for making the return of income for the estate or trust for which he acts whether such income be taxable to the estate or trust or to the beneficiaries thereof. The net income of an estate or trust shall be computed in the same manner and on the same basis as provided in this Act for individual taxpayers, except that there shall also be allowed as a deduction any part of the gross income which, pursuant to the terms of the will or deed creating the trust, is during the taxable year paid to or permanently set aside for the United States, this state or any municipality or taxing subdivision thereof, or any corporation or association organized and operated in Kentucky exclusively for religious, charitable, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual; and, in cases under paragraphs (d) and (e) of subdivision (1) of this section, the fiduciary shall include in the return a statement of each beneficiary's distributive share of such net income, whether or not distributed before the close of the taxable year for which return is made.

(3) In cases under paragraphs (a), (b), and (c) of subdivision (1) of this section, the tax shall be imposed upon the estate or trust with respect to the net income of the estate or trust and shall be paid by the fiduciary, except that in determining the net income of the estate of any deceased person during the period of administration or settlement there may be deducted the amount of any income properly paid or credited to any legatee, heir or other beneficiary. In such cases, the estate or trust shall be allowed no exemption such as is allowed to individuals by this Act, and a trust created by a person not a resident, and an estate of a person not a resident shall be subject to tax only to the extent to which individuals other than residents are liable under this Act.

(4) In cases under paragraphs (d) and (e) of subdivision (1) of this section, if the distribution of income is in the discretion of the fiduciary, either as to the beneficiaries to whom payable or as to the amounts to which any beneficiary is entitled, the tax shall be imposed upon the estate or trust in the manner provided in subdivision (3) of this section, but without the deduction of any amounts of income paid or credited to any such beneficiary. In all other cases under paragraphs (d) and (e) of subdivision (1) of this section, the tax shall not be paid by the fiduciary, but there shall be included in computing the net income of each beneficiary his distributive share, whether distributed or not, of the net income of the estate or trust for the taxable year; or, if his net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the estate or trust is computed, then his distributive share of the net income of the estate or trust for any accounting period of such estate or trust ending within the fiscal or calendar year upon the basis of which such beneficiary's net income is computed. In such cases the income of a beneficiary, not a resident, derived through such estate or trust, shall be taxable only to the extent provided in this Act.

§ 30. *Fiduciary returns.* (1) Every fiduciary (except receivers appointed by authority of law in possession of part only of the property of a taxpayer) shall make under oath a return for the person or estate or trust for whom or for which he acts, as follows:

(a) If he acts for a living person whose entire income from whatever source derived is in his charge and the net income of such individual is one thousand dollars ($1,000) or over if single, or if married and not living with husband or wife, or two thousand dollars ($2,000) or over if married and living with husband or wife;

(b) If he acts for an estate of a deceased person during the period of administration or settlement, whether or not the income of such estate during such period of administration or settlement is properly paid or credited to a legatee, heir or other beneficiary; for an estate or trust the income of which is accumulated in trust for the benefit of unborn or unascertained persons or person with contingent interest; or for an estate or trust the income of which is held for future distribution or is distributable at the discretion of the fiduciary under the terms of the will or trust;

(c) If he acts for an estate or trust the income of which is to be distributed to the beneficiaries periodically; or as the guardian of an infant whose income is to be held or distributed as the court may direct. The return made by a fiduciary shall state specifically the items of the gross income and the deductions and exemptions allowed by this Act. Under such regulations as the Department may prescribe, a return made by one of two or more joint fiduciaries shall be a sufficient compliance with the above requirements. The fiduciary shall make oath that he has sufficient knowledge of the affairs of the individual, estate or trust for whom or which he acts to enable him to make the return, and that the same is, to the best of his knowledge and belief, true and correct.

(2) Fiduciaries required to make returns under this Act

shall be subject to all the provisions of this Act which apply to other taxpayers.

(3) Fiduciary returns shall be filed within the time required by this Act for the filing of individual returns, and for failure to file returns in time, fiduciaries shall be subject to the same penalties as individuals.

(4) The returns required by this section shall be handled in the same manner as returns are handled for individuals.

§ 31. *Partnership income.* Individuals carrying on business in partnerships shall be liable for income tax only in their individual capacity, and no income tax shall be assessable hereunder upon the net income of any partnership. All such income shall be assessable to the individual partners; it shall be reported by such partners as individuals upon their respective individual income returns, and it shall be taxed to them as individuals along with their other income at the rates and in the manner herein prescribed for the taxation of income received by individuals. There shall be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the taxable year; or, if his net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the partnership is computed, then his distribution share of the net income of the partnership for any accounting period of the partnership ending within the taxable year upon the basis of which the partner's net income is computed.

§ 32. *Allocation of corporate income.* (1) Interest, dividends, rent any royalties not received in connection with the transaction of business, and gains from the sale of property not held, owned or used in connection with business (less related expenses, if any) shall be allocated to Kentucky if received from sources within Kentucky, and if received from sources outside of Kentucky such income shall be allocated outside the State; and the balance, hereinafter referred to as business income, shall be allocated to Kentucky and shall be taxable as hereunder set forth. Gains or losses by domestic corporations from the sale of securities issued by foreign governments or by corporations organized under the laws thereof shall be allocated to Kentucky.

(2) If the trade or business of the corporation is carried on entirely within the State, the tax shall be imposed on the entire business income; but, if such trade or business is carried on partly within and partly without the State, the tax shall be imposed only on the portion of the business income reasonably attributable to the trade or business within the State, to be determined as follows:

(a) Interest, dividends, rents and royalties (less related expenses) received in connection with business in the State, shall be allocated to the State and where received in connection with business outside of the State shall be allocated outside of the State.

(b) Gains, includible in gross income under Sections 2 and 6, from the sale of capital assets or property held, owned or used in connection with the trade or business of a corporation but not for sale in the regular course of business shall be allocated to the State if the property sold is real or tangible personal property situated in the State, or intangible property connected with the business in the State.

(c) Net income of the above classes having been separately allocated and deducted as above provided, the remainder of the net business income of a corporation shall be allocated and apportioned as follows:

(A) Where income is derived from business other than the manufacture and sale of tangible personal property, or the conduct of a public utility, such income shall be specifically allocated or equitably apportioned within and without the State under rules and regulations of the Department.

(B) Where income is derived from the manufacture or sale of tangible personal property, the portion thereof attributable to business within the State shall be taken to be such percentage of the total of such income as the value of the tangible property and business within the State bears to the value of the total tangible property and total business, the percentage of tangible property and of business being separately determined as hereinafter provided, and the two percentages averaged.

(C) For the purpose of the foregoing computation, the value of the tangible property shall be taken to be the average value of the tangible property held and owned by the corporation in connection with such business during the year for which the income is returned, excluding any property the income of which is not taxable or separately allocated under the foregoing provisions of this Act.

(D) The business of the corporation shall be measured by the amount of all receipts during the year from sales and other sources connected with said business, excluding, however, receipts from the sale of capital assets and property not sold in the regular course of business and also receipts from interest, dividends, rents and royalties separately allocated as above provided. Accounts receivable from sales and other sources arising from business during the year, shall be included in the formula if the corporation's return is made on the accrual basis.

(E) Receipts from sales and other sources shall be assigned to the office, agency, or place of business of the corporation at or from which the transactions giving rise to such receipts are chiefly handled and attended to with respect to the negotiation and execution.

(d) For the purpose of this section the word "sale" shall include all exchange, and the word "manufacture" shall include the extraction and recovery of natural resources and all processes of fabricating and curing.

(3) Where the income is derived from the conduct of a public utility, the portion thereof attributable to business

within the State shall be taken to be such percentage of the total of such income as the tangible property and business within the State bear to the total tangible property and total business, the percentages of tangible property and of business being separately determined as hereinafter provided, and the two percentages averaged.

(a) For the purpose of the foregoing computation, the value of the tangible property shall be taken to be the average value of the tangible property held and owned by the corporation in connection with such business during the year for which the income is returned, excluding any property the income of which is not taxable or is separately allocated under the foregoing provisions of this Act.

(b) In determining the tangible property located within this State of a railroad company operating both within and without the State, the valuation of car rolling stock and equipment and the locomotive rolling stock and equipment within the State shall be found by applying to the total valuation of the entire rolling stock and equipment of each respective class belonging to such company that proportion or percentage which the car mileage within the State during the income year bears to the total car mileage of such company's cars, and which the locomotive mileage within the State during the income year bears to the total locomotive mileage of such company's locomotives, used in the conduct of its business both within and without the State for that year.

(c) The business of the public utility shall be measured by the amount of receipts from the carrying on of the business. Receipts in Kentucky shall be held to include in addition to all receipts from business commencing and terminating within this State such portion of receipts from all interstate business passing through or into or out of the State as is determined by applying to gross receipts from all business of transportation and communication enterprises that percentage which the mileage within the State over which such business, the percentages of tangible property and of business it was carried. (The Department shall prescribe methods of allocating receipts of other utilities.) Accounts receivable from services rendered and other sources arising from business during the year shall be included in the formula if the corporation's return is made on the accrual basis.

§ 33. *Tax a personal debt.* Every tax imposed by this Act, and all increases, interest and penalties thereon, shall become, from the time it is due and payable, a personal debt, from the person or persons liable to pay the same, to the Commonwealth of Kentucky.

§ 34. *Penalty and interest.* If taxes imposed by this Act be not paid when due, as provided herein, the taxpayer liable to such tax shall pay as a penalty, in addition to the amount of such tax, an additional tax of five per cent (5%) of such amount, plus one per cent (1%) for each month the tax or additional tax remains unpaid; but the Department, upon submission to it of satisfactory evidence that the failure to pay such taxes within the time prescribed in this Act was not willful or evasive, may modify the exaction to not less than one per cent (1%) for each month following the due date of the tax.

§ 35. *Discontinuation of business.* If any corporation or partnership shall dissolve or withdraw from the State during any taxable year, or if any corporation shall in any manner surrender or lose its charter during any taxable year, such dissolution, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of income taxes for such period of such taxable year as such corporation or partnership may have had an income in this State.

§ 36. *No suit to restrain or delay.* No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this Act. The aggrieved taxpayer shall pay the tax under protest as and when required by the

Department and may at any time within three (3) years from the date of such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in an action at law in any court, State or Federal, otherwise having jurisdiction of the parties and subject matter, for the recovery of the tax paid with legal interest thereon from the date of payment. If it is finally determined that said tax or any part thereof was wrongfully collected, for any reason, it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected together with legal interest thereon. The Treasurer shall pay the same at once out of the General Expenditure Fund of the State in preference to other warrants or claims against the Commonwealth. A separate suit need not be filed for each individual payment made by any taxpayer, but a recovery may be had in one suit for as many payments as may have been made, so far as same are not barred by time limitation herein specified.

§ 37. *Revenue for state general fund.* All revenue collected under the terms of this Act shall be covered into the State treasury and credited to the General Expenditure Fund.

§ 38. *Provisions severable.* The provisions of this Act are severable. If any provisions, section, paragraph, or the application of any provision to any class of taxpayers should be held unconstitutional or invalid, such decision shall not affect or impair the remainder of the Act, it being hereby declared the legislative intent to tax separately each class of income contemplated by any of its provisions.

§ 39. *Income for first taxable year.* The taxes imposed by this Act shall first be collected and paid with respect to the net income received during the remainder of the taxable year in which this Act becomes effective. The income taxable in the event the taxpayer's records fail to disclose the income for the fraction of a year, shall be the total income for the taxable year multiplied by the number of days remaining (at the time the Act becomes effective) in said year and divided by the total number of days in the year.

§ 40. *Emergency.* Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State government and its agencies, an emergency is declared to exist; and this Act shall become a law and be effective on its passage and approval by the Governor.

§ 41. *Repeal of conflicting laws.* All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Mr. McCarthy offered the following amendment to said bill, viz.:

Amend H. B. 29 by inserting in Section 14, subsection 3, line 46, on page 14 of the printed bill after ''nies'' and before the word ''and'' the following language: ''including farmers' or other mutual hail, cyclone, windstorm or fire insurance companies, insurers and reciprocal underwriters''.

Mr. Munford moved the Previous Question on said amendment and on the bill.

Thereupon the Speaker announced ''Shall the Main Question be now put?''

Which was decided in the affirmative.

Said amendment was then agreed to.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and rejected, having failed to receive a majority necessary under the Rules of this House.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
W. T. Baker
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Floyd Clark
Roscoe Claxon
J. A. Coleman
Herbert Cook
Sam Dever
Stanley S. Dickson
Howard G. Early
Eugene Gough
Ben Grogan
W. L. Hampton, Jr.
Price Holbrook
Ira W. Hulette
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
W. H. Miller
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
John C. Robinson
A. W. Ross
Carl Scheben
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
J. J. Thomas
Joseph L. Wall
W. G. Williams

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Those who voted in the negative were—

C. W. Anderson, Jr.
G. M. Ballard
Reuben J. Boling
Dr. R. A. Byers
Jas. C. Carter
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Jas. T. Hamilton
C. L. Hammons
Thomas W. Hines
John M. Hunnicut
J. H. Jones
Robert E. Lee
Lloyd MacDonald
G. S. Milam
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
Hobart Rayburn
W. T. Rollo
Ray O. Shehan
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
S. J. Wagner
Henry Ward
Charles Wylie

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Dr. Shields moved that the House do now adjourn.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. Garnett and Milam, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
W. T. Baker
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Floyd Clark
George S. Clay
J. A. Coleman
Herbert Cook
Sam Dever
Stanley S. Dickson
Howard G. Early
T. P. Fitzpatrick
Ben Grogan
W. L. Hampton, Jr.
Price Holbrook
Ira W. Hulette
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
L. K. Rice
Wade H. Riley
John C. Robinson
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
J. J. Thomas
Joseph L. Wall
L. R. Wells
W. G. Williams

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Those who voted in the negative were—

Henry H. Allen
C. W. Anderson, Jr.
G. M. Ballard
Reuben J. Boling
Dr. R. A. Byers
Jas. C. Carter
Walter R. Fannin
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Jas. T. Hamilton
C. L. Hammons
Thomas W. Hines
John M. Hunnicut
J. H. Jones
Robert E. Lee
Lloyd MacDonald
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
Hobart Rayburn
Harry C. Records
W. T. Rollo
Ray O. Shehan
Chester D. Silvers
H. C. Steely

Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
S. J. Wagner
—34

And then the House adjourned.

TUESDAY, APRIL 14, 1936.

The House was opened with prayer by the Reverend Alexander M. Warren of the First Presbyterian Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Herbert Cook
Sam Dever
Stanley S. Dickson
Howard G. Early
Garland Embry
Walter R. Fannin
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
Jas. T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
G. S. Milam
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
John C. Robinson
W. T. Rollo

A. W. Ross
Carl Scheben
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

Mr. Grogan moved that the House do now recess until one o'clock P. M.

Said motion was disagreed to.

Mr. Shehan moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Munford moved that the House do now adjourn.

Said motion was disagreed to.

Mr. Silvers offered the following resolution, viz.:

House Resolution No..................

Whereas, This General Assembly has repealed the Gross Receipts Tax Act of 1934, thereby depriving the General Revenue Fund of between $6,750,000 and $7,000,000 annually, and

Whereas, This General Assembly has repealed the state tax on real estate, which paid about $650,000 a year into the general fund, and

Whereas, It is necessary for this special session of the General Assembly to raise sufficient revenue to replace the revenues lost when these taxes were repealed, and

Whereas, In order to balance the budget it is also necessary to raise enough in new taxes, or reduce the expenses of the state enough to offset the deficit in the general fund, which was about $335,000 in the calendar year 1935, and

Whereas, The State Inspector and Examiner, Honorable Nat B. Sewell, estimates that the administrative expenses of the government will be reduced 21 per cent by the reorganization act passed by this General Assembly, and

Whereas, The General Assembly has passed a whiskey, beer and wine tax estimated to raise about $3,000,000 annually, and is about to pass an inheritance tax bill estimated to increase revenues of the general fund about $600,000 annually, and

Whereas, The increase in production of whiskey will result in added revenues of possibly $1,000,000 a year without necessity for enactment of additional laws to secure said revenue, and

Whereas, All these factors indicate that about $4,000,000 additional new taxes are still needed to balance the budget, and

Whereas, This Legislature has been asked to raise $12,500,000 to $13,800,000 in new revenues, of which only $3,600,000 have been raised or are about to be raised, and

Whereas, It is the sense of this House that this session should pass revenue laws sufficient to balance the budget, but no more than that amount, and

Whereas, This House does not know now how much money actually needs to be raised to balance the budget: Now, Therefore,

Be it Resolved by the House of Representatives of the Commonwealth of Kentucky:

(1) That a committee of nine be appointed, one from each Congressional District, as follows:

Mr. Henry Ward, 1st Dist.
Mr. Russell O'Neill, 2d Dist.
Mr. James Garnett, 3d Dist.
Mr. Roger Wells, 4th Dist.
Mr. Thomas Fitzpatrick, 5th Dist.
Mr. Chester Silvers, 6th Dist.
Mr. Roy Conway, 7th Dist.
Mr. B. F. Bedford, 8th Dist.
Mr. Ray Shehan, 9th Dist.

to ascertain and report to this House, by examination for the books of the auditor and by obtaining expert advice from other state departments, exactly how much revenue should be provided by this General Assembly for the purpose of balancing the general fund budget, and what program of taxation can best provide the needed amount, and *Be it Further Resolved*:

(2) That this House defer action on passage of all further revenue measures until said committee completes and makes its report to this House.

Mr. Myers moved that said resolution be laid on the table.

Said motion was agreed to.

And so said resolution was tabled.

Upon a call of the Counties and Legislative Districts, the following bill was introduced, viz.:

By Mr. Rollo:

H. B. 40. An Act entitled an Act for the promotion of sports, to provide for a tax on cock and dog fights and providing how said tax shall be levied and collected and providing the means and method of levying and collecting same and providing penalties for violation thereof; to provide for a state sporting commission who shall have charge of all cock and dog fights; to prescribe its powers and duties; to fix its compensation; to provide for holding elections; to provide for the licensing of such fights and apportioning the moneys derived therefrom; to provide for the selling of combination or French pools within the enclosure of such licensed stadiums; to provide penalties for violation of this Act and repealing all laws in conflict therewith, and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Any corporation formed for the purpose of promoting or breeding cocks or fighting dogs and conducting cock and dog fights and exhibitions shall have the power and right, subject to the provisions of this Act, to hold one or more of such exhibitions each month, and to hold, maintain and conduct either cock or dog fights at such meetings. As such meetings the corporation or the owners of such fighting cocks or fighting dogs engaged in such exhibitions or others who are not participants in such exhibitions may contribute purses, prizes, premiums or stakes to be contested for; but no person or persons other than the owner or owners of cocks or dogs participating in such an exhibition or contest shall have any pecuniary interest in a prize, purse, premium or stake contested for in such contest, or be entitled to, or receive any portion thereof, after such exhibition or contest has been staged, and the whole of such purse, prize or premium or stake shall be alloted in accordance with the terms and conditions of such contest.

Such meetings shall be held during any period of the year except during the time when thoroughbred horse or greyhound dog races are being held, or any baseball or football game is being held, or any political or religious convention is being held in the city or community where such contests are being conducted. Said contests shall be held between the hours of seven o'clock P. M. and twelve o'clock midnight and no contests or fights are authorized or shall be permitted except during the period aforesaid.

§ 2. A State Sporting Commission is hereby established to consist of three persons to be named by the Governor. The members of said commission shall hold their offices for a term of four years and the first commission shall be appointed within twenty days after this Act shall go into effect. The Governor will appoint a Secretary for said commission who shall act for a period of two years, whose duty it shall be to keep a full and faithful record of its proceedings and preserve at its general office, all books, maps, documents and papers intrusted to its care and who shall perform such other duties as the commission may prescribe. He shall be paid a salary to be fixed by the commission at a rate not exceeding $2,500 per annum, which shall be paid by the various sporting corporations or associations conducting cock or dog fights in the state. The commission shall biennially make a full report to the General Assembly of its proceedings for the two year period ending with the first day of December preceding the meeting of the General Assembly and shall embody therein such suggestions and recommendations as it shall deem proper.

§ 3. Powers of Commission.—Said commission shall have the power to prescribe the rules, regulations and conditions under which cock and dog fighting shall be conducted in this state and no such fights shall be conducted in this state except by those duly licensed by such commission as herein provided.

Any one desiring to conduct such fights may annually apply to the State Sporting Commission for a license so to do. If, in the judgment of the commission, a proper case for the issuance of such a license is shown it may grant the same for a term of one month and such license shall contain a provision that all fights or exhibitions conducted thereunder shall be subject to the rules, regulations and conditions from time to time prescribed by the commission and shall be revokable by the commission for any violation thereof, or whenever the conduct of such licensee shall be deemed by the commission not conducive to the best interest of legitimate dog or cock fighting. But if a license is refused to any applicant or revoked by said commission it shall publicly state its reasons for so doing and said reason shall be written in full in the minute book of said commission, which shall at all times be subject to inspection upon application of any interested person desiring so to do. Said finding of said commission revoking said permit or license shall be subject to review by a court of competent jurisdiction; providing that a refusal of the commission to grant to any one promoting cock or dog fighting a license to operate or to assign to any one the requested number of days in which to promote his cocks or dogs and applying for permits to fight in either event shall not be subject to review by the courts of this state.

§ 4. Exhibitions at which fights shall be permitted for any stake, purse or reward except as allowed in this Act, is hereby declared to be a public nuisance and any person acting or aiding therein shall be deemed guilty of a misdemeanor and punished by a fine of not less than $500.00 or more than $1,000.00 for each day such fights are held and in addition thereto, in a suit brought for the purpose by the State Sporting Commission in the circuit court of the county where it may be proposed to conduct such unauthorized fights, an injunction may be obtained against the operation of said fights or exhibitions.

§ 5. At the time of making application for a permit, the applicant shall deposit with the State Sporting Commission a cash bond, certified check or bank draft to the order of the Sporting Commission in an amount equal to $50.00 for each night excluding Sundays, petitioned for in said application. Provided, however, in the event such application is rejected the commission shall refund the money paid for such permit. In the event any full night's exhibition of fighting is declared off on account of inclemency of the weather, or on account of the conditions of the cocks or dogs, or in the event any part of said fighting plant is made unusable by fire, wind or riot or explosion or other cause, the Sporting Commission shall refund to the permit holders the sum of money paid for the permit.

§ 6. Upon the filing of an application accompanied by a permit fee or a cash bond, certified check or bank draft as herein provided by any person, association, trust or corporation not in default on payment of any obligation due the Commonwealth of Kentucky under the provisions of this Act the Sporting Commission may issue a permit to each applicant to hold or conduct an exhibition dog or cock fight or fights. Such permits shall specify the person, association, trust or corporation to whom the same is issued, the date or dates upon which such fights are to be held, the hours upon which such fights are to be conducted, the location of the place, exhibition ring, where such fight is to be held or conducted and shall in writing, evidence the receipt of the payment of the permit fee and the deposit of the cash bond, certified check or bank draft by applicant, and if such permit is issued to applicant it shall contain a condition that all cock and dog fights conducted therein, shall be subject to the rules and regulations of the commission as then existing or may be from time to time prescribed and promulgated by said Sporting Commission. The commission may refuse to award dates for fights or exhibitions if such permit has been previously revoked. The permit may be suspended, diminished or revoked by the commission under the authority of the act or for any cause by it deemed sufficient.

§ 7. Any person, association, trust or corporation holding a permit to conduct a cock or dog exhibition or fight, may provide a place or places on the exhibition grounds at which they or it may conduct and supervise French pools, the combination, or certificate system of wagering by patrons of legal age on the fights conducted by such permit holder at such meeting. (Such combination, French pools or certificate wagering upon cock or dog fights or exhibitions at the time of such fights or exhibitions shall not be construed to be unlawful to the statutes of the State of Kentucky, to the contrary notwithstanding.) Any law in conflict with this provision is hereby repealed. Each permit holder may retain as commission, not to exceed fifteen per cent of the total of all money wagered each day. The permit holder may also retain the odd cents of all redistributions to be made on all combinations or French pools or certificate system, contributions exceeding a sum equal to the next lowest multiple of ten cents. At the close of each night when fights are conducted, the permit holder shall pay to the Sporting Commission as a tax, five per cent of the total of all money wagered each day. In addition to the aforesaid taxes each person, association, or corporation authorized to conduct fights or exhibitions under this act shall pay to the Sporting Commission twenty per cent of all moneys received by persons attending said fights or the sum of ten cents on each and every admission, whichever sum is the greater. Said sums shall be accompanied by a report under oath showing the total of all said contributions and admissions at the fights covered by such report and such other information as said commission may require.

§ 8. All moneys collected from the five per cent commission as above referred to and all moneys collected from the sale of admission tickets as above referred to, shall be paid by the Sporting Commission to the State Treasurer of the Commonwealth and said moneys when paid to the State Treasurer shall be allocated and used for the general common school fund.

§ 9. At least, ninety-five per cent of all persons connected with any cock or dog fighting exhibition authorized under this Act, including gatekeepers, announcers, ushers, and judges shall be qualified electors of this state, provided, that this section shall not apply to owners and trainers of cocks and dogs.

§ 10. After any person, association or corporation has been fighting cocks or dogs in any county for a period of sixty days, if the citizens of the county are dissatisfied with cock or dog fighting in said county, an election or referendum may be ordered by the legal voters of said county in number equal to 25 per cent of the votes cast therein at the last preceding election provided said number of voters shall sign a petition to that effect in the office and in the presence of the county court clerk of said county, who shall at the time said petition is filed and signed determine whether said signer or signers are qualified voters of said county and after the requisite number of voters have signed said petition the County Clerk shall certify these facts to the County Judge whose duty it shall be at the next regular term thereof to make an order in his order book directing an election to be held in such county to be effected thereby, no earlier than 60 days after said application is lodged with the court. The order shall direct the sheriff to open a poll at all voting places in said county for the purpose of taking a sense of the voters upon the proposition of whether or not they want cock or dog fighting.

§ 11. It shall be the duty of the county clerk to give to the sheriff a certified copy of the order of the county court as it appears on the order book within five days after said order is made; and it shall be the duty of said sheriff to have said order published in some weekly or daily newspaper published in the county for at least two weeks before the election and also to advertise the same by printed or written handbills, which shall be posted at some conspicuous place or places in every voting precinct in the county where the election will be held.

§ 12. If it shall be found that a majority of the legal votes cast at any election herein provided for were given for or against cock or dog fighting, it shall be the duty of the canvassing board to certify that fact which certificates shall be delivered to the clerk of the county court and by him safely kept until the next regular term of the County Court at which term the judge thereof shall have the same spread on the order book and said entry of certificates in the order book or a certified copy thereof shall be *prima facie* evidence in any and all proceedings under this Act.

§ 13. The result of said election when so held under the provisions of this Act determine the question for a period of five years and no election shall be held again in said county upon this subject for a period of five years thereafter.

§ 14. If any section of this Act shall be declared unconstitutional it shall only affect such portion and such section and not affect the other sections of said Act.

§ 15. Whereas, the Commonwealth of Kentucky is in dire need of revenue to sustain and maintain its various institutions of government and the credit of the state is being impaired by lack of sufficient revenue to carry on various functions of government, and for the purpose of securing immediately the revenue provided for under this proposed Act an emergency is hereby declared to exist and this Act shall take effect from and after its passage and approval by the Governor.

Ordered that said bill be printed and referred to the Committee on Revenue and Taxation No. 1.

Mr. Brown of the Committee on Revenue and Taxation No. 1, to which the same had been previously referred, reported a bill of the following title, viz.:

H. B. 9. An Act providing a license tax on the business or occupation of cemetery memorial dealers and on salesmen selling or offering to sell cemetery monuments, memorials, or markers or soliciting orders therefor and providing a penalty for the violation of the provisions thereof.

Without an expression of opinion.

Said bill was read at length the first time and ordered to be placed on the Calendar.

Dr. Shields moved that the House do now recess until one o'clock P. M.

Said motion was agreed to.

And then the House recessed.

AFTERNOON SESSION

The hour of one o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

Mr. Thomas moved that the privilege of the floor be extended to Mr. Robert Humphries.

Said motion was agreed to.

Mr. Hunnicut moved that the privilege of the floor be extended to Messrs. Harry Klaene, Harry Jobert, Richard Udry, and Walter Riter.

Said motion was agreed to.

Mr. Bowen moved that the privilege of the floor be extended to Mr. Yancy Baxter of Anderson County.

Said motion was agreed to.

Mr. Nickell moved that the privilege of the floor be extended to Mr. South Arnett.

Said motion was agreed to.

Mr. Myers moved that the rules of this House be suspended for the purpose of granting Mr. Ben Kilgore the privilege of the floor for the purpose of discussing the merits of the bill which proposes a tax on oleomargarine.

Said motion was agreed to.

Thereupon Mr. Kilgore for ten minutes discussed in open session the merits of said bill.

Dr. Shields moved that the vote by which a bill entitled:

H. B. 29. An Act relating to revenue and taxation, providing for an income tax, the collection and administration thereof, and declaring an emergency.

Was rejected on yesterday, having failed to receive a necessary majority,

Be reconsidered.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. Gnau and Van Bever, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
W. T. Baker
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
V. O. Chandler
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
Howard G. Early
Garland Embry
Walter R. Fannin
Eugene Gough
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson

O. C. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
J. L. McDermott
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
W. H. Miller
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
John C. Robinson
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
W. R. Tapp
J. J. Thomas
Joseph L. Wall
L. R. Wells
W. G. Williams
—54

Those who voted in the negative were—

H. T. Baker
G. M. Ballard
Dr. R. A. Byers
Jas. C. Carter
H. Myer Garner
Ferd A. Gnau
Jas. T. Hamilton
C. L. Hammons
John M. Hunnicut
J. H. Jones
Leslie Larrimore
G. S. Milam
Tyler Munford
Ray O. Shehan
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
S. J. Wagner
Henry Ward
Charles Wylie
—22

Dr. Shields moved that the vote by which the Previous Question was ordered on said bill, be reconsidered.

Said motion was agreed to.

(For bill see House Journal of yesterday.)

Thereafter such reconsideration, Mr. Milam offered the following amendment to said bill, viz.:

Amend H. B. 29 by striking from line 7, paragraph 13, subsection 1, page 12 of the printed bill, the figures "$2,000" and inserting in lieu thereof the figures "$2,500".

Said amendment was agreed to.

Dr. Shields offered the following amendments to said bill, viz.:

Amend H. B. 20, line 10 on page 5 of the printed bill, by striking out the word ''corporation''.

Amend H. B. 29, Section 14, line 17 on page 13 of the printed bill, by striking out the word ''property'' and inserting in lieu thereof ''tangible property and such intangible property as has acquired a business situs''.

Amend H. B. 29, Section 14, line 20 on page 13 of the printed bill, by striking out the word ''property'' and inserting in lieu thereof ''tangible property and such intangible property as has acquired a business situs''.

Amend H. B. 29, Section 14, line 24 on page 13 of the printed bill, by striking out the word ''property'' and inserting in lieu thereof ''tangible property and such intangible property as has acquired a business situs''.

Amend H. B. 29, line 31, on page 14 of the printed bill by inserting after the word ''income'' and before the word ''from'' the following language: ''taxable under this Act''.

Amend H. B. 29 by adding sub-paragraph (d) under Section 32-3(c) as follows:

''Provided however that if such Public Utility keeps its records of operating revenues and operating expenses on a State basis in accordance with the standard classification of accounts prescribed by the Federal Communication Commission and/or Interstate Commerce Commission, and in such manner as to include in net income for the State the effect of all Intro-State and/or Inter-State business applicable to the State, then such records may be used by the taxpayer in reporting the net taxable income within the State.''

Amend H. B. 29 by striking out lines 44, 45 and 46 on page 4 of the printed bill, and inserting in lieu thereof the following: "(e) Interest upon the obligations of the United States or any instrumentalities of the Federal Government, and interest upon the obligations of this State or any of its political sub-divisions and municipalities and instrumentalities thereof".

Amend H. B. 29 by inserting in line 6 of Section 13, page 12, after the word "a" and before the word "husband" the words "head of a family or of a".

Said amendments were each and severally agreed to.

Dr. Shields moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the negative.

The yeas and nays being required thereon by Messrs. Milam and Hunnicutt, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
W. T. Baker
B. F. Bedford
Douglas Bolling
Wallace Brown
V. O. Chandler
Floyd Clark
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Garland Embry
Walter R. Fannin
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson
O. C. Jones
J. F. Ladd
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Elmer McGlothen
C. S. Matherly
W. H. Miller
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
A. W. Ross
Carl Scheben
Dr. B. F. Shields
P. L. Sidebottom

Bruce Sloan
J. J. Thomas
Joseph L. Wall
W. G. Williams
—40

Those who voted in the negative were—

Henry H. Allen
H. T. Baker
G. M. Ballard
Reuben J. Boling
Ollie J. Bowen
Dr. R. A. Byers
Jas. C. Carter
Roscoe Claxon
George S. Clay
Stanley S. Dickson
Howard G. Early
T. P. Fitzpatrick
H. Myer Garner
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
Thomas W. Hines
John M. Hunnicut
J. H. Jones
R. T. Kirkman
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
W. F. McGary
John Marshall
G. S. Milam
W. E. Mull
Tyler Munford
Rodes K. Myers
Hobart Rayburn
Wade H. Riley
W. T. Rollo
Carl Schneider
Ray O. Shehan
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
R. Van Bever, Jr.
S. J. Wagner
Henry Ward
L. R. Wells
Charles Wylie
—47

Mr. Milam offered the following amendments to said bill, viz.:

Amend H. B. 29 by striking figures and words "Two Thousand Dollars ($2,000)" in lines 13 and 14, page 12 of the printed bill, Section 13, and inserting in lieu thereof the following: "Two Thousand Five Hundred Dollars ($2,500)".

Amend H. B. 29 by striking therefrom the following words in line 7, page 12, subsection 1, the words "Two Thousand Dollars" and inserting in lieu thereof "Two Thousand Five Hundred Dollars".

Said amendments were each agreed to.

Dr. Shields moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. McGary moved the Previous Question on the bill under consideration.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only, and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
W. T. Baker
G. M. Ballard
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
Howard G. Early
Garland Embry
Walter R. Fannin
T. P. Fitzpatrick
G. W. Garrett
Eugene Gough
Ben Grogan
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Robert E. Lee
C. S. Matherly
T. B. McConnell
J. L. McDermott
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
W. H. Miller
J. C. Nickell
Mel Petry

A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
John C. Robinson
A. W. Ross
Carl Scheben
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
W. R. Tapp
J. J. Thomas
Joseph L. Wall
W. G. Williams
John Kirtley, Spkr.

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Those who voted in the negative were—

H. T. Baker
Reuben J. Boling
Dr. R. A. Byers
Jas. C. Carter
H. Myer Garner
Ferd A. Gnau
James T. Hamilton
C. L. Hammons
John M. Hunnicut
Leslie Larrimore
G. S. Milam
W. E. Mull
Tyler Munford
Hobart Rayburn
W. T. Rollo
Ray O. Shehan
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
S. J. Wagner
Henry Ward
Charles Wylie

—24

Resolved that the title thereof be as aforesaid.

Mr. McCarthy moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

A message was received from the Senate announcing that they had passed a bill which originated in this House of the following title, viz.:

H. B. 16. An Act relating to revenue and taxation; concerning inheritance tax, etc.

With amendments thereto as proposed by the Senate.

(For bill see House Journal of April 8.)

Said amendments as proposed by the Senate, are as follows, viz.:

1. Amend H. B. 16 in Senate by striking out the word "twelve" in line 16, Section 7, on page 15 of the printed bill, and inserting in lieu thereof the word "eighteen".

2. Amend H. B. 16 in Senate by striking out the word "twelve" in line 24, page 16 of the printed bill, and inserting in lieu thereof the word "eighteen".

3. Amend H. B. 16 in Senate by striking out the word "fairly" in line 1, Section 9, page 21 of the printed bill, and inserting in lieu thereof the words "file a".

4. Amend H. B. 16 in Senate by striking therefrom the word "Individual" in line 76, page 4 of the printed bill, and inserting in lieu thereof the word "beneficiary".

5. Amend H. B. 16 in Senate by striking out the words "to a wife" in line 60, page 6 of the printed bill.

6. Amend H. B. 16 in Senate by inserting after the word "annuities" and before the word "shall" in line 151, page 9, of the printed bill, the following words: "and life interest".

7. Amend H. B. 16 in Senate by striking out the word "bequest" in line 73, on page 7 of the printed bill, and inserting in lieu thereof the word "share".

8. Amend H. B. 16 in Senate by striking out the numeral "6" in line 126 on page 9 of the printed bill, and inserting in lieu thereof the numeral "7".

9. Amend H. B. 16 in Senate by striking out the period after the word "corpus" in line 52 on page 3 of the printed bill and adding the following language "and collection therefor shall be made pursuant to Section 8, subsection 5".

10. Amend H. B. 16 in Senate by striking out the following language in lines 82 and 83 on page 20 of the printed bill: "and executor or administrator shall collect tax due upon land which is subject to tax under" and inserting in lieu thereof the following language: "an executor or administrator or trustee shall collect tax due upon land or the proceeds of insurance policies which are subject to tax under".

11. Amend H. B. 16 in Senate by inserting in line 37, page 6, printed bill, after the comma following the word ''blood'' the following: ''nephew, niece''.

12. In line 75 of Section 1, strike out ''the'' before ''proceeds''; after ''proceeds'' insert ''in excess of $20,000''; strike out ''any'' and substitute ''policies'' for ''policy''.

13. Amend H. B. 16 in Senate, Section 5, on page 12, by striking from line 35 the words ''Franklin county'' and inserting in lieu thereof the words: ''the county where the personal representative was appointed and qualified''.

14. Amend H. B. 16 in Senate, Section 4, page 13, by adding after the word ''paid'' in line 59, before the period, the following: ''only to the extent that same comes into their hands''.

15. Amend H. B. 16 in Senate, as follows: In lieu of lines 59 to 63, page 6, substitute the following:

''An incompetent or totally disabled son or daughter regardless of age, $15,000.00; wife or infant son or daughter $10,000.00 provided, that if the transfer to any of them exceeds $30,000.00 the exemption shall be decreased by subtracting from $15,000.00 or $10,000.00 (whichever shall be applicable in conformity with this section) the amount by which the distributable share exceeds $30,000.00 so that a distributable share greater than $40,000.00 shall receive no exemption.''

16. To amend H. B. 16 in Senate, as follows: Page 5, line 22, after the word ''tax'' add these words: ''subject to exemptions hereinafter set forth''.

17. To amend H. B. 16 in Senate as follows: Page 6, line 38, after the word ''tax'' add these words: ''subject to exemptions hereinafter set forth''.

18. Amend H. B. 16 in Senate as follows: Page 6, line 57, after the word ''tax'' add these words: ''to Class A and Class B the following exemptable''.

19. Amend H. B. 16 by striking out the words "of Franklin County" in line 38 of Section 5 on page 12 of the printed bill.

20. Amend the title to H. B. 16 by striking out the period after the word "inclusive" at the end of same on page 1 and adding after said word "inclusive" the following words: "and declaring an emergency to exist".

21. By adding at the end of the title the following: "This bill shall be known as the 'Tapp-Rives Bill'."

Dr. Shields moved that the House do now adjourn until one o'clock P. M. on tomorrow.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Myers and Claxon, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Douglas Bolling
Wallace Brown
V. O. Chandler
Roy Conway
Ferd A. Gnau
Price Holbrook
Ben W. Johnson
J. L. McDermott
W. E. Mull
A. W. Pfeiffer
J. C. Ramey
John C. Robinson
W. T. Rollo
Carl Scheben
Carl Schneider
Dr. B. F. Shields
Bruce Sloan
W. R. Tapp
Joseph L. Wall
—20

Those who voted in the negative were—

Henry H. Allen
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Ollie J. Bowen
Dr. R. A. Byers
Jas. C. Carter
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Herbert Cook
Sam Dever
Stanley S. Dickson
Howard G. Early
Garland Embry
Walter R. Fannin
T. P. Fitzpatrick
H. Myer Garner
G. W. Garrett
Eugene Gough
Ben Grogan
W. L. Hampton, Jr.
Thomas W. Hines
Clyde S. Howard

Ira W. Hulette
John M. Hunnicut
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
G. S. Milam
Tyler Munford
Rodes K. Myers
J. C. Nickell
Hobart Rayburn
L. K. Rice
Wade H. Riley
Ray O. Shehan
P. L. Sidebottom
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
J. J. Thomas
S. J. Wagner
L. R. Wells
W. G. Williams
Charles Wylie

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Mr. Gnau moved that the House do now adjourn until ten o'clock A. M. on tomorrow.

Said motion was agreed to.

And then the House adjourned.

WEDNESDAY, APRIL 15, 1936.

The House was opened with prayer by the Reverend Alexander M. Warren of the First Presbyterian Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Harry Davis
Sam Dever
Stanley S. Dickson
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett

Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

Mr. Davis moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Milam moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. Munford moved that the vote, by which the House requested the Committee on Revenue and Taxation No. 1 to hold an open hearing on the Tobacco Tax on today, be reconsidered.

Said motion was agreed to.

Mr. Munford moved that the House do now resolved itself into the Committee of the Whole House for the purpose of hearing opponents of the Tobacco Tax.

Said motion was agreed to.

Thereupon the Speaker vacated the Chair and designated Mr. Silvers as Chairman of the Committee of the Whole House.

After a time the Speaker resumed the Chair and Mr. Silvers, Chairman of the Committee of the Whole House reported that the Committee of the Whole House had heard arguments of various gentlemen in opposition to the Tobacco Tax, and reported progress.

Dr. Shields moved that the House do now recess until the hour of two o'clock P. M.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Milam and Munford, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Douglas Bolling
Wallace Brown
George S. Clay
Roy Conway
Sam Dever
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
Ben W. Johnson
O. C. Jones
J. F. Ladd
T. B. McConnell
Duke Mayfield
J. C. Nickell
A. W. Pfeiffer
L. K. Rice
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
Bruce Sloan
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall

—28

Those who voted in the negative were—

H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Ollie J. Bowen
Dr. R. A. Byers
Jas. C. Carter
Floyd Clark
Roscoe Claxon
J. A. Coleman
Herbert Cook
Harry Davis
Stanley S. Dickson
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
Ira W. Hulette
John M. Hunnicut
J. H. Jones
R. T. Kirkman
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
D. T. Matlack
G. S. Milam
W. H. Miller
John B. Mollett
Tyler Munford
Rodes K. Myers
Russell O'Neill
Hobart Rayburn
Harry C. Records
Wade H. Riley
Ray O. Shehan
P. L. Sidebottom
Chester D. Silvers
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
Henry Ward
L. R. Wells

—54

Mr. Joe E. Robinson moved that the House do now adjourn.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Robinson and Shields, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Wallace Brown
Roy Conway
Sam Dever
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
Ben W. Johnson
J. F. Ladd
T. B. McConnell
Duke Mayfield
J. C. Nickell
A. W. Pfeiffer
J. C. Ramey
L. K. Rice
Joe E. Robinson
John C. Robinson
A. W. Ross

Carl Scheben
Carl Schneider
Dr. B. F. Shields
Bruce Sloan
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
—26

Those who voted in the negative were—

H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Ollie J. Bowen
Dr. R. A. Byers
Jas. C. Carter
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Herbert Cook
Harry Davis
Stanley S. Dickson
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
Ira W. Hulette
John M. Hunnicut
J. H. Jones
O. C. Jones
R. T. Kirkman
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
D. T. Matlack
G. S. Milam
W. H. Miller
John B. Mollett
Tyler Munford
Rodes K. Myers
Russell O'Neill
Hobart Rayburn
Harry C. Records
Wade H. Riley
Ray O. Shehan
P. L. Sidebottom
Chester D. Silvers
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
Henry Ward
L. R. Wells
—55

Mr. Dickson moved that the Rules of this House be suspended for the purpose of allowing the Committee on Revenue and Taxation No. 1 to file a Minority Report, in the absence of a Majority Report.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. Munford and Milam, were as follows, viz.:

Those who voted in the affirmative were—

H. T. Baker
W. T. Baker
G. M. Ballard

B. F. Bedford
Reuben J. Boling
Ollie J. Bowen
Dr. R. A. Byers
Jas. C. Carter
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Herbert Cook
Harry Davis
Stanley S. Dickson
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
Ira W. Hulette
John M. Hunnicut
J. H. Jones
R. T. Kirkman
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
D. T. Matlack
G. S. Milam
W. H. Miller
John B. Mollett
Tyler Munford
Rodes K. Myers
Russell O'Neill
Hobart Rayburn
Harry C. Records
Wade H. Riley
Ray O. Shehan
P. L. Sidebottom
Chester D. Silvers
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
Henry Ward
L. R. Wells
Charles Wylie

—57

Those who voted in the negative were—

Wallace Brown
Roy Conway
Sam Dever
W. L. Hampton, Jr.
Ben W. Johnson
J. F. Ladd
T. B. McConnell
Duke Mayfield
J. C. Nickell
A. W. Pfeiffer
J. C. Ramey
L. K. Rice
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Dr. B. F. Shields
Bruce Sloan
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall

—22

Thereupon Mr. Ward of the Committee on Revenue and Taxation No. 1, to which the same had been previously referred, filed the following Minority Report, viz.:

A Minority of the Committee on Revenue and Taxation No. 1, to which the same had been previously referred, has had under consideration a bill entitled:

H. B. 35. An Act relating to revenue and taxation and declaring an emergency.

And reports the same with the expression of opinion that the same should not pass.

Henry Ward.
S. J. Wagner.
Carl Schneider.

Said Minority Report was sent to the Clerk's desk but was not accompained by the original bill which is in the hands of the Chairman of the Committee on Revenue and Taxation No. 1.

Mr. Ward moved that said Minority Report be adopted by this House.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. Farnsley and Hammons, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Ollie J. Bowen
Dr. R. A. Byers
Jas. C. Carter
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Herbert Cook
Harry Davis
Stanley S. Dickson
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
Ira W. Hulette
John M. Hunnicut
J. H. Jones
O. C. Jones
R. T. Kirkman
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
D. T. Matlack
G. S. Milam

John B. Mollett
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Hobart Rayburn
Wade H. Riley
Carl Schneider
Ray O. Shehan
P. L. Sidebottom
Chester D. Silvers
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
S. J. Wagner
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
—61

Those who voted in the negative were—

F. T. Allen
Wallace Brown
V. O. Chandler
Roy Conway
Sam Dever
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
J. F. Ladd
T. B. McConnell
Duke Mayfield
A. W. Pfeiffer
J. C. Ramey
L. K. Rice
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Dr. B. F. Shields
Bruce Sloan
W. R. Tapp
J. J. Thomas
Joseph L. Wall
—23

Mr. Milam moved that the vote by which said Minority Report was adopted by this House, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 37. An Act relating to revenue and taxation for the sale of vinous and spirituous liquors, repealing, amending and re-enacting the last paragraph of Section 6, Article IV, Chapter 146, Acts of the General Assembly of 1934, codified as Section 2554b-16, Baldwin's Supplement to Carroll's Kentucky Statutes, and declaring an emergency.

H. B. 9. An Act providing a license tax on the business or occupation of cemetery memorial dealers and on salesmen selling or offering to sell cemetery monuments, memorials or markers or soliciting orders therefor and providing a penalty for the violation of the provisions thereof.

Ordered that said bills be read the second time.

The constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

Mr. Gough moved that the Rules of this House be suspended for the purpose of introducing bills.

Said motion was disagreed to.

Mr. Garnett moved that the Legislative Council on the part of the House of Representatives, be directed to select a delegate from their membership to attend the meeting of the National Council of State Governments to be held on this week in Chicago, Illinois.

Said motion was agreed to.

Mr. Munford moved that the House do now adjourn to meet again on Saturday, April 18, at ten o'clock A. M.

Said motion was agreed to.

The yeas and nays being taken thereon, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.
H. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Jas. C. Carter

Floyd Clark
Roscoe Claxon
J. A. Coleman
Harry Davis
Stanley S. Dickson
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Ben Grogan
Jas. T. Hamilton
C. L. Hammons
John M. Hunnicut
J. H. Jones
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
John Marshall
D. T. Matlack
G. S. Milam
W. H. Miller
John B. Mollett
Tyler Munford
Rodes K. Myers
Russell O'Neill
Hobart Rayburn
Harry C. Records
Wade H. Riley
Ray O. Shehan
Chester D. Silvers
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
L. R. Wells
W. G. Williams
Charles Wylie

—46

Those who voted in the negative were—

F. T. Allen
W. T. Baker
Ollie J. Bowen
Wallace Brown
V. O. Chandler
George S. Clay
Roy Conway
Sam Dever
T. P. Fitzpatrick
Eugene Gough
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
Ira W. Hulette
O. C. Jones
R. T. Kirkman
J. F. Ladd
T. B. McConnell
Elmer McGlothen
Duke Mayfield
J. C. Nickell
A. W. Pfeiffer
J. C. Ramey
L. K. Rice
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
Henry Ward

—37

And then the House adjourned.

SATURDAY, APRIL 18, 1936.

The House was opened with prayer by the Reverend Alexander M. Warren of the First Presbyterian Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
W. T. Baker
G. M. Ballard
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
Floyd Clark
Roscoe Claxon
J. A. Coleman
Herbert Cook
Sam Dever
Stanley S. Dickson
Howard G. Early
Walter R. Fannin
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
J. F. Ladd
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. H. Miller
Tyler Munford
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Joe E. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Ray O. Shehan
P. L. Sidebottom
Chester D. Silvers
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
Joseph L. Wall
Henry Ward
L. R. Wells
Charles Wylie
Mr. Speaker

Mr. Hammons moved that the reading of the Journal of Wednesday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Carter moved that the privilege of the floor be extended to Mr. Joe Martin, Judge of Metcalfe County.

Said motion was agreed to.

Mr. Gnau moved that the privilege of the floor be extended to Col. Henry Baldwin of Lexington, Kentucky.

Said motion was agreed to.

Mr. Wylie moved that the privilege of the floor be extended to Misses Nancy Formley and Mary Bell Formley.

Said motion was agreed to.

Mr. McGary moved that the privilege of the floor be extended to Mr. and Mrs. Byron Pennebaker.

Said motion was agreed to.

Mr. Silvers moved that the privilege of the floor be extended to Miss Virginia Graves of Lexington, Kentucky.

Said motion was agreed to.

Mr. Scheben moved that Miss Dorothy Mae Truesdell be appointed an Honorary Page of this House.

Said motion was agreed to.

Mr. W. T. Baker offered the following resolution, viz.:

WHEREAS, Kentucky is making a tremendous effort to balance its budget, and

Whereas, there is an overwhelming sentiment in this House for an increase in the production tax on whiskey, and

Whereas, there may be some uncertainty as to the extent such an additional tax might be deterimental to the production of whiskey in this State, and

Whereas, it is desirable to know all the facts relating to the financial condition of distilleries in this State, and the probable effect an additional tax would have upon their location or their volume of production, and

Whereas, this House may proceed with accurate information:

Be it Resolved, That the Speaker of this House appoint a committee of six (6) members, three of whom are known to be opponents of such an increase, authorized and required to make a very thorough investigation and to report to this House its findings as to the profits made by the several distilleries in this Commonwealth since the repeal of National Prohibition and to advise whether or not any increase in the production tax would be fair and reasonable.

Be it Further Resolved, That the committee be authorized to summon and swear witnesses, compel the production of such books as they deem necessary, and be fully authorized to acquire and report to the House all facts so related to this subject as to enable the House to intelligently and fairly legislate and pass any further measure of this character.

Mr. Ballard moved that said resolution be laid on the table.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. Baker and Howard, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
G. M. Ballard
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
Roscoe Claxon
Sam Dever
Walter R. Fannin
James Garnett, Jr.
Ferd A. Gnau
C. L. Hammons
Ira W. Hulette
J. F. Ladd
Robert E. Lee
W. F. McGary
W. H. Miller
Tyler Munford
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
Joe E. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
L. R. Wells

—31

Those who voted in the negative were—

W. T. Baker
Reuben J. Boling
Floyd Clark
J. A. Coleman
Herbert Cook
H. Myer Garner
Eugene Gough
Ben Grogan
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
Leslie Larrimore
M. T. McCarthy
Lloyd MacDonald
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
J. C. Nickell
P. L. Sidebottom
Chester D. Silvers
Henry Ward
Charles Wylie
—28

Ordered that a leave of absence be granted to Mr. Riley.

Mr. Garnett moved that the Clerk of this House be directed to have printed a sufficient number of H. B. 23 to furnish the membership of this House with same.

Said motion was agreed to.

Upon a call of the Counties and Legislative Districts, the following bills were introduced, viz.:

By Mr. Hulette:

H. B. 41. An Act relating to revenue and taxation of gasoline and repealing certain sections and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Chapter one hundred and fifty (150), of the Acts of the General Assembly of 1932, now codified in Baldwin's Suplement to Carroll's Kentucky Statutes, Sections 4224b-1 to 4224b-12, inclusive, is hereby repealed.

§ 2. *Definitions.* Whenever used in this Act unless the context requires otherwise:

(a) "Person" shall mean and include any individual or individuals, association, firm, co-partnership, corporation, receiver, trustee, conservator, or other officer appointed by any State or Federal court.

(b) "Gasoline" as used in this Act shall include all liquid fuels, including liquids ordinarily, practically and commercially usable in internal combustion engines for the generation of power, and all distillates of, and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments and all other products, so usable except kerosene, cleaner solvent, fuel oil, diesel fuel and crude oil sold and used for purposes other than for use in internal combustion engines.

(c) "Dealer" is hereby defined as any person who imports or causes to be imported in the State of Kentucky gasoline as herein defined for use, distribution, or sale and delivery in the State of Kentucky and after the same shall reach the State of Kentucky; also any person who produces, refines, manufactures or compounds gasoline in the State of Kentucky for use, distribution or sale and delivery in this State; also any person who receives gasoline by tank car, barge or pipe line delivery from any point within this State upon which gasoline the excise tax levied by this Act has not been paid; also any person importing or causing to be imported into this State, gasoline in the fuel tank or any auxiliary tank of his motor vehicle in a quantity in excess of thirty gallons.

(d) "Department" shall mean the Department of Revenue of the Commonwealth of Kentucky.

(e) Gasoline shall be deemed as "received" when so designated by the term "received" in this Act when it shall have been caused to be imported into the State of Kentucky by any person for use, distribution, or delivery and sale and when it shall have been placed in tanks or other containers for use or subject to withdrawal for use, distribution or sale and delivery. Gasoline produced, refined, manufactured or compounded at any refinery in the State of Kentucky by any person shall be deemed to be ''received'' as the word ''received'' is used in this Act by such person when the same shall have been loaded into tank cars for delivery within the State of Kentucky or placed in any tank from which sales or deliveries are made at the refinery where the same is produced, refined, manufactured or compounded. Gasoline imported by any person into the State of Kentucky and received through delivery by boat at a marine terminal for storage, or delivered by pipe line at a pipe line terminal for storage, shall be deemed to have been ''received'' when the same shall have been loaded into tank cars for delivery within the State of Kentucky or placed in any tank from which sales or deliveries are made at such respective marine or pipe line terminals. Provided that dealers may sell gasoline to licensed bonded dealers in the State of Kentucky in transport truck load, carload or cargo lots withdrawing such gasoline from refinery, marine or pipe line terminal storage tanks, without paying the tax on such gasoline. In such instances the licensed bonded dealers purchasing such gasoline shall be deemed as having ''received'' such gasoline, and shall assume responsibility to the State for the payment of the tax thereon and shall report and pay the tax on such gasoline, purchased and received.

(f) ''Refinery'' shall mean any place where gasoline is refined, manufactured, compounded or otherwise prepared for use.

(g) ''Accountable losses'' of gasoline shall be construed to mean that ''received'' gasoline which, through wrecking of transportation conveyance, explosion, and/or fire, shall have been lost or destroyed; report of such loss made to the Department in a manner and form to be prescribed by the Department and supported by positive and conclusive evidence in the judgment of the Department, of such alleged loss, and confirmed in writing to the reporting dealer by the Department after any investigation deemed necessary by the Department to establish the bona fide claim of such loss.

§ 3. *Rate of tax on gasoline.* An excise tax of five cents (5c) per gallon is hereby imposed on all gasoline received in this Commonwealth as the word "received" is hereinbefore defined. No other excise or license tax shall be levied or assessed on the receipt of gasoline by the State or any political subdivision of the State. The tax hereby provided for shall be paid by the dealer receiving such gasoline to the State Treasurer in the manner and within the time hereinafter specified. Nothing herein contained shall be construed as authorizing or requiring the collection of such tax upon any gasoline after the same shall have been already once taxed under the provisions of this Act.

§ 4. *Allocation of tax from gasoline.* All taxes collected under the provisions of Section 2 of this Act shall be covered into the State Treasury and shall be used only to defray the expense of the administration of this Act and for the purpose of the construction, reconstruction, maintenance and repair of roads, highways and bridges.

§ 5. *Records required.* Every dealer receiving gasoline in the State of Kentucky shall keep and preserve for a period of two years an accurate record of all such receipts as well as of all production, refining, manufacture, compounding, use, sale, distribution, and delivery of gasoline together with invoices, bills of lading and other pertinent records and papers as may be required by the Department. Every person purchasing gasoline from a dealer for the purpose of resale shall maintain and keep for a period of one year a record of all such gasoline so purchased and sold or used, the amount of tax paid to the dealers as part of the purchase price together with delivery tickets, invoices, bills of lading and such other records as the Department shall require.

§ 6. *Reports required of refiners and importers.* Any person who or which produces, refines, manufactures or compounds gasoline in the State of Kentucky shall on or before the 10th day of each month file a report with the Department on forms prescribed for the purpose and covering the next preceding calendar month of the number of gallons of gasoline produced, refined, manufactured or compounded, the number of gallons withdrawn from refinery storage and shipped to points outside of the State, the number of gallons withdrawn from refinery storage and shipped to points within the State of Kentucky upon which tax has not been paid, and giving in detail the following data regarding each separate shipment: Date of shipment, number of gallons in each shipment, name of owner and license number of truck, if shipped by transport truck, initial and number of tank car if shipped by rail, name and owner of barge if shipped by water, name and address of person to whom shipped, point of shipment, point of destination and name of carrier to whom delivered for transportation to destination. Any person who or which imports and stores gasoline in any marine or pipe line terminal storage in the State of Kentucky shall on or before the 10th day of each month file a report with the Department on forms prescribed for the purpose of covering the next preceding calendar month of the total number of gallons of gasoline unexported and stored, the total number of gallons withdrawn from storage and received, the number of gallons withdrawn from storage and shipped to points outside of the State and the number of gallons of gasoline withdrawn from storage and shipped to points within the State of Kentucky upon which tax has not been paid, and giving in detail the following data regarding each separate shipment; date of shipment, number of gallons in each shipment, name of owners and license number of truck, if shipped by transport truck, initial and number of tank car if shipped by rail, name and owner of barge if shipped by water, name and address of person to whom shipped, point of shipment, point of destination and name of carrier to whom delivered for transportation to destination.

§ 7. *Reports of transportation.* Every railroad or other transportation company and every other person, firm, association, partnership or corporation transporting gasoline as defined in Section 1 of this Act by whatsoever manner from without the State to points within this State, or beween points within the State shall report to the Department, on forms prescribed by the Department, showing the name and address of each person, firm or corporation to whom deliveries of gasoline have been made, the name and address of the original consignee, if deliveries are made to any other than the original consignee, the name and address of the consignor, the point of origin, the point of delivery, the date of delivery, the number and initials of each tank car, if shipped by rail, the quantity of each shipment and delivery in gallons, the manner of shipment and delivery, and such other information as the Department may require relative to the transportation and delivery of such gasoline. Such reports are to include intra-city switching movements of gasoline in tank cars or otherwise. Such reports shall be made under oath and shall be filed on or before the last day of every month covering all such deliveries made within the State during the preceding calendar month.

§ 8. *Report of sales by counties.* Every dealer shall on or before the last day of the month file a report with the Department showing the total number of gallons sold, distributed or used in each county of the state during the next preceding calendar month.

§ 9. *Reports required on gasoline received.* Every dealer or the treasurer or other proper officer or agent of every dealer shall on or before the last day of each month transmit to the Department a statement under oath or affirmation on such forms as the Department may prescribe of the total number of gallons of gasoline received as the term "received" is hereinbefore defined in the State of Kentucky during the next preceding calendar month and the statement shall include the following information:

a. An itemized statement of the number of gallons of all gasoline received during the next preceding calendar month by such dealer which has been produced, refined, manufactured or compounded by such dealer in the State of Kentucky.

b. An itemized statement of the number of gallons of all gasoline received by such dealer in the State of Kentucky from any source whatsoever during the next preceding calendar month as shown by shippers' invoices thereof, other than the gasoline falling within the provisions of (a) above, together with a statement showing the date of receipt of such gasoline, the name of the person from whom purchased, the date of receipt of each shipment of gasoline, the point of origin and the point of destination, the quantity of each of said purchases or shipment, the name of the carrier, the initials and number of each tank car, date of receipt and the number of gallons contained in each car if shipped by rail or the name and owner of the boat, ship, barge or vessel if shipped by water.

c. An itemized statement of the number of gallons of received gasoline, if any, which such dealer has during the preceding calendar month:

(1) Sold to the United States Government or any of its agencies.

(2) Sold for delivery in Kentucky in transport truck, tank car or cargo lots to licensed bonded dealers. Statement shall give a record of all such transport truck, tank car or cargo sales of gasoline, giving the date of shipment, the number of gallons contained in each shipment, the name of owner and license number of truck, if shipped by transport truck, the initials and number of the tank car if shipped by rail, the name and owner of the boat, barge or vessel and the number

of gallons contained therein, if shipped by water, and shall set forth the name of the person to whom sold, point of shipment and point of delivery.

(3) Lost through accountable losses which have been reported to and approved in writing by the Department as provided in Section 1-g of this Act.

(4) Exported or sold for export from the State of Kentucky to any other state or to any foreign country.

d. Such other information as may be required by the Department.

§ 10. *Receipt and tax on inventory.* In addition to the data required in Section 9 the report rendered by any dealer for the first calendar month from and after the date when this Act shall have become effective shall contain a statement of the number of gallons of gasoline on hand, untaxed and received (within the meaning of the term "received" as defined in Section 1-e of this Act), by such dealers as of the date when this Act shall have become effective. Such gasoline shall be deemed to have been received by such dealer in six equal quantities in the first six calendar months following the effective date of this Act, one-sixth of the total quantity in each month and each one-sixth shall be included in computing the tax payable by said dealer for each of said six months.

§ 11. *Computation and payment of tax.*

a. From the total number of gallons of gasoline received by the dealer within the State of Kentucky during the next preceding calendar month, the following deductions shall be made:

(1) The total number of gallons of gasoline received by the dealer within the State of Kentucky and sold or otherwise disposed of during the next preceding calendar month as set forth in Section 9, paragraph (c), items (1), (2), (3) and (4) of this Act.

(2) That number of gallons of gasoline which shall be

equal to two and one-fourth (2¼%) per cent of the total number of gallons of gasoline received by the dealer within the State of Kentucky during the next preceding calendar month, less the total number of gallons deducted under sub-paragraph (1) next preceding; this deduction being allowed to cover evaporation, shrinkage, unaccountable losses, collection costs, bad debts, handling and reporting the tax.

b. The tax at the rate of five cents (5c) per gallon of gasoline shall be computed on the number of gallons remaining after the deductions hereinabove set forth have been made and shall constitute the amount of gasoline tax payable for the next preceding calendar month.

Reports required in Section 8 shall be accompanied by a certified or cashier's check, payable to the State Treasurer of Kentucky for the amount of tax due for such preceding calendar month.

§ 12. *Failure to report and pay tax, penalties provided.* If any dealer neglects or refuses to make said return, or pay the tax at the time hereinabove provided, the amount thereof, with an addition of a penalty of twenty per cent (20%) thereof, with interest at the rate of six per cent (6%) per annum from the date when due until paid, shall be paid on an account settled by the Department, as other taxes are paid, settled and collected; and, if collected by proceedings in any court, an additional penalty of twenty per cent (20%) shall be collected as is authorized to be collected under Section 4263-4 of the Kentucky Statutes, as amended by House Bill Number One, First Extraordinary Session of 1936.

The said twenty per cent (20%) penalty thereon and interest due shall be paid into the State Treasury as part of the tax, and the additional twenty per cent (20%) penalty collected by suit shall be distributed as provided in Section 4263-4 of the Kentucky Statutes, as amended by House Bill Number One, First Extraordinary Session of 1936.

§ 13. *Penalties for violation.* By virtue of the allowance provided herein to dealers for collecting the tax and remitting the same to the Department, every dealer is a trust officer of the State, and failure to remit gasoline tax to the State as provided herein constitutes embezzlement of State funds, and upon conviction under this section any individual, or partner, or officer, or agent of any association, partnership or corporation shall be guilty of a misdemeanor and shall be fined not exceeding one thousand dollars ($1,000) or imprisoned in the county jail not exceeding six months, or both so fined and imprisoned, and upon conviction on a second offense under this section, shall be guilty of a felony and shall be imprisoned for not less than one year or more than five years in the State prison. Provided that in case such violator be other than natural person then the principal officer and/or the officer or officers responsible for such violation may be punished by such imprisonment.

§ 14. *Powers of the Department of Revenue.* The administration of this Act is vested in the Department of Revenue, which may prescribe forms and promulgate rules and regulations needed for the enforcement of this Act.

The Department, through a representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment and/or inventory of any person made liable for any tax under the provisions of this Act; to examine witnesses under oath for purposes appropriate for enforcement of this Act; and to examine the books, records, papers, files, equipment and/or inventory of manufacturers, wholesalers, retailers or carriers for the purpose of determining whether the Act is being violated.

The Department shall have the power to institute legal proceedings by the Attorney General of Kentucky, or any attorney duly authorized by him, for the purpose of ascertaining the amount of tax due and/or enforcing the collection thereof with penalties and interest thereon, and for the pur-

pose of enjoining the operation of the business of the delinquent.

The Department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalty and interest thereon, as set out herein, have an attachment against the property of the person liable for tax or garnishment of his creditors without the execution of bond on the filing of an affidavit showing the nature of the claim, that it is just, the sum which the Department believes the Commonwealth should recover, and any of the grounds provided by the Civil Code of Practice for the issuance of an attachment in civil causes.

§ 15. *Information privileged.* Any information obtained by the Department or any agent or representative thereof as a result of a report, investigation, or verification herein authorized to be made, shall be confidential and any person divulging any such information except upon order of a court of competent jurisdiction or to an officer of the Commonwealth entitled to receive the same in his official capacity shall be fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500.00).

§ 16. *Restraining suits.* No suit shall be maintained in any court to restrain or delay the collection of the tax herein imposed on any grounds whatever but the aggrieved taxpayer shall pay under protest the tax as and when due and may at any time within two years after such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in any action in any court, State or Federal, otherwise having jurisdiction of the subject matter for the recovery of the tax so paid with legal interest thereon from the date of payment. If it can be finally determined that said tax or any part thereof was wrongfully collected for any reason it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected, together with interest thereon; and the Treasurer shall pay the same at once out of the Road Fund of the State in preference to other warrants or claims against the Commonwealth.

Separate suits need not be filed for each separate payment by any taxpayer but recovery may be had in one for all suits heretofore paid or not barred by the limitaiton of two years herein imposed.

§ 17. *Penalties for failure to make returns, to pay tax, or to permit examination of records.* Any person or dealer who shall fail, neglect or refuse to make the returns and pay the tax herein prescribed, or shall refuse to permit the Department, its assistants, agents or representatives appointed by it in writing, to examine the books, records, papers, files and equipment of such person or dealer pertaining to the business made taxable by this Act, or who makes any incomplete, false or fraudulent return hereunder, or who does, or attempts to do, anything whatever to avoid a full disclosure of the amount of business done or to avoid the payment of the whole or any part of the tax or penalties due, or who shall fail to keep and preserve records of gasoline manufactured, transported, received, used, sold or delivered or make reports as provided in this Act, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000.00), and in the case the offender is an individual, he may be imprisoned in the county jail not exceeding six months, or both so fined and imprisoned. Provided, that in case such violator be other than a natural person then the principal officer and/or the officer or officers responsible for such violation, may be punished by such imprisonment. Such penalty shall be in addition to the penalty imposed hereinbefore in Section 13 of this Act.

§ 18. *Dealers license required.* After this Act shall go into effect it shall be unlawful for any dealer to receive, use, sell or distribute any gasoline or to engage in the sale of gasoline within this State unless such dealer is the holder of an uncanceled license issued by the Department to engage in such business. To procure such license every dealer shall file with the Department an application under oath or affirmation and in such form as the Department may prescribe, setting forth:

a. The name under which the dealer will transact business within the State of Kentucky;

b. The location, with street number, address, of its principal office or place of business within this State; and if such dealer has more than one place of business within the State, the locations of each place of business;

c. The name and complete residence address of the owner or the names and addresses of the partners, if such dealer is a partnership, or the names and addresses of the principal officers, if such dealer is a corporation or association; and if such dealer is a corporation organized under the laws of another state, territory or country, it shall also file with such application a certified copy of the certificate or license issued by the Secretary of State of Kentucky showing that such corporation is authorized to transact business in the State of Kentucky. Upon the filing of an application for a license, and concurrently therewith, a bond of the character stipulated and in the amount provided for in Section 19 of this Act shall be filed with the Department. No license shall be issued upon any application unless accompanied by such a bond. In the event that any application for a license certificate to transact business as a dealer in the State of Kentucky shall be filed by any person whose license shall at any time heretofore have been canceled for cause by the Department, or in case said Department shall be of the opinion that such application is not filed in good faith, or that such application is filed by some person as a subterfuge for the real person in interest whose license or registration shall theretofore have been canceled for cause by said Department, then and in any of said events, the Department, after a hearing, of which the applicant, shall have been given five (5) days' notice in writing and in which said applicant shall have the right to appear in person or by counsel and present testimony, shall have and is hereby given the right and authority to refuse to issue to such person a license certificate to transact business as a dealer in the State of Kentucky. The application in proper form having been accepted for filing, and the bond having been accepted and approved, the Department shall issue to such dealer a license in the State of Kentucky, subject to cancellation of such license as provided by law. The license certificate so issued by the Department shall not be assignable, and shall be valid only for the dealer in whose name issued, and shall be displayed conspicuously in the principal place of business of said dealer in the State of Kentucky. The Department shall keep and file all applications and bonds with an alphabetical index thereof, together with a record of all licensed dealers. It shall be the duty of the Department to publish and keep currently up to date a list of licensed dealers and transmit a copy of such list and all revisions thereto to all licensed dealers.

§ 19. *Bond required.* Every dealer shall file with the Department a bond in the minimum amount of $2,000.00, or an amount equal to three times the monthly tax liability, whichever shall be less, and up to a maximum amount sufficient in the opinion of the Department, the financial rating and reputation of the company considered, to insure payment to the State of Kentucky of the amount of tax and penalties and interest for which the dealer may become liable, on a form to be approved by the Department and with a surety thereon approved by the Department and upon which such dealer shall be the principal obligor and the State of Kentucky shall be the obligee, conditioned upon the prompt filing of true reports and the payment by such dealer to the Treasurer of the State of Kentucky of any and all gasoline excise taxes which are now or which hereafter may be levied or imposed by the State of Kentucky together with any and all penalties and/or interest thereon, and generally upon faithful compliance with the provisions of this Act. In the event that liability upon the bond thus filed by the dealer with the Department shall be discharged or reduced, whether by judgment rendered, payment made or otherwise, or if in the opinion of the Department any surety on the bond theretofore given shall have become unsatisfactory or unacceptable, then the Department may require the dealer to file a new bond with satisfactory sureties in the same amount, failing which the Department shall forthwith cancel the license certificate of said dealer. If such new bond shall be furnished by said dealer as above provided, the Department shall cancel and surrender the bond of said dealer for which such new bond shall be substituted. In the event that upon hearing, of which the dealer shall be given five (5) days' notice in writing, the Department shall decide that the amount of the existing bond is insufficient to insure payment to the State of Kentucky of the amount of the tax and any penalties and interest for which said dealer is or may at any time become liable, then the dealer shall forthwith, upon the written demand of the Department file an additional bond in the same manner and form with a surety thereon approved by the Department to be necessary to secure at all times the payment by such dealer to the State of Kentucky of all taxes, penalties, and interest due under the provisions of this Act, failing which the Department shall forthwith cancel the license certificate of said dealers. Any surety on any bond furnished by any dealer as above provided shall be released and discharged from any and all liability to the State of Kentucky accruing on such bond after the expiration of sixty (60) days from the date upon which surety shall have lodged with the Department written request to be released and discharged. Provided, however, that such request shall not operate to relieve, release or discharge such surety from any liability already accrued, or which shall accrue, before the expiration of said sixty day period. The Department shall promptly upon receipt of notice of such request notify the dealer who furnished such bond, and, unless, such dealer shall on or before the expiration of such sixty day period file with the Department a new bond with a surety satisfactory to the Department in the amount and form hereinbefore in this section provided, the Department shall forthwith cancel the license of said dealer. If such new bond shall be furnished by said dealer as above provided, the Department shall cancel and surrender the bond of said dealer for which such new bond shall be substituted.

§ 20. *Cancellation of license.* If any dealer shall at any time file a false monthly report of the data or information required by this act, or shall fail, refuse or neglect to file the monthly report required by this Act, or to pay the full amount of the tax as required by this Act, the Department may forthwith cancel the license of said dealer and notify such dealer in writing of such cancellation by registered mail to the last known address of such dealer appearing on the files of the Department. The Department is hereby given the power to cancel any license hitherto or hereafter issued to any dealer, such cancellation to become effective sixty (60) days from the date of receipt of the written request of such dealer for cancellation thereof or said Department may cancel the license of any dealer upon investigation and sixty (60) days' notice mailed to the last known address of such dealer if it shall ascertain and find that the person to whom such license has been issued is no longer engaged in the receipt, use or sale of gasoline as a dealer, and has not been so engaged for the period of six (6) months prior to such cancellation. But no such license shall be canceled upon the request of any dealer until and unless the dealer shall, prior to the date of such cancellation, have paid to the State of Kentucky all excise taxes payable under the laws of the State of Kentucky together with any and all penalties and fines accruing by reason of any failure on the part of said dealer to make accurate reports as required by this Act and/or pay such taxes and/or penalties. In the event that the license of any dealer shall be canceled by the Department as hereinbefore in this section provided, and in the further event that said dealer shall have paid to the State of Kentucky upon the receipt, sale or use of gasoline, together with any and all penalties accruing by reason of any failure on the part of said dealer to make accurate reports or to pay said tax and/or penalties, then the Department shall cancel and surrender the bond heretofore filed by said dealer.

§ 21. *Penalty for operation without license.* Any person who shall engage in the business of receiving, using, selling, and/or distributing gasoline in the State of Kentucky as a dealer without being the holder of an uncanceled license to engage in such business, or who shall, without such license, receive, use, sell and/or distribute any gasoline upon which the tax herein imposed shall not have been reported and paid, shall pay a penalty equal to twenty per cent (20%) of the amount of the tax, and, in addition thereto, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00) or by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year or both so fined and imprisoned in the discretion of the jury. Each day or part thereof during which any person shall engage in business as a dealer without being the holder of an uncanceled license shall constitute a separate offense within the meaning of this section. Provided that in case such violator be other than a natural person, then the principal officer and/or the officer or officers responsible for such violation may be punished by such imprisonment.

§ 22. *Exchange of information with other states.* The Department shall, upon request duly received from the officials to whom are intrusted the enforcement of the gasoline tax laws of any other state, forward to such officials any information which it may have in its possession relative to the manufacture, receipt, sale, use, transportation and/or shipment by any person of gasoline. Provided, however, this section shall not apply unless such state extend to this State a similar privilege.

§ 23. *Separability clause.* The provisions of this Act are severable, and if any of its provisions or any penalty provided by this Act shall be held unconstitutional, such provision or the particular penalty held to be invalid shall not affect or impair the remainder of the Act or such part of the penalties as are not held to be invalid and the decisions of the courts shall not affect or impair the remaining provisions of this Act or any of the other penalties anywhere in this Act provided. It is hereby declared as a legislative intent that this Act would have been adopted had any unconstitutional provisions of such invalid penalties not been included herein.

§ 24. *Emergency.* Whereas, the present State revenue does not meet the immediate needs for maintenance of the State government an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor.

By Mr. Gnau:

H. B. 42. An Act relating to revenue and taxation and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. When by the laws of any other state any tax, fee, fine or penalty of any sort whatever is imposed on any goods produced in Kentucky, greater than that imposed upon the same or similar goods produced in such other state, then the same tax, fee, fine or penalty is hereby imposed on any goods produced in such other state and sent or imported into Kentucky.

§ 2. This tax is not intended to apply to goods or articles in interstate commerce and they are hereby expressly excluded from the provisions of this Act.

§ 3. The Department of Revenue of the Commonwealth of Kentucky is hereby charged with the enforcement of this Act and it shall have all power necessary to such enforcement in the collection of the taxes herein provided, including the institution of legal proceedings and to promulgate such rules and regulations and prescribe such forms as it may deem necessary for the enforcement of this Act.

§ 4. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

§ 5. Whereas, the Commonwealth of Kentucky is sorely in need of revenue for the maintenance of the several necessary branches of government, an emergency is hereby declared to exist and this Act shall become effective from and after its passage and approval by the Governor.

By Mr. Schneider:

H. B. 43. An Act relating to revenue and taxation and repealing, amending and re-enacting certain paragraphs of subdivision 4, Article 12, Chapter 22, page 88 of the Acts of the General Assembly of 1906 as amended by Chapter 158, page 678, of the Acts of the General Assembly of 1920, now codified as certain paragraphs in Section 4224, Carroll's Kentucky Statutes, 1930 Edition, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That the paragraphs reading:

"*Brokers and Commission Merchants.* On each corporation, individual or firm, except banks and trust companies, whether resident in this state or not, engaged in buying or selling notes, bonds, stocks or other securities, twenty-five dollars.

On each broker or commission merchant, other than a liquor broker, twenty-five dollars."

being certain paragraphs of subdivision 4, Article 12, Chapter 22, page 88 of the Acts of the General Assembly of 1906, as amended by Chapter 158, page 678, of the Acts of the General Assembly of 1920, now codified as certain paragraphs in Section 4224 Carroll's Kentucky Statutes, 1930 Edition, be and the same are hereby repealed, amended and re-enacted so that as re-enacted it shall read:

"*Brokers and Commission Merchants.* Each and every person, firm or corporation, whether acting as principal or agent, who engages in the business of buying notes, contracts of sale, or other obligations, executed for the payment of personal property in Kentucky, shall pay a license tax to the Commonwealth of Kentucky in the sum of five hundred dollars ($500.00) annually, for each county in which such person, firm or corporation conducts or maintains an office."

By Mr. Ramey:

H. B. 44. An Act relating to revenue and taxation of lubricating oil and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* Whenever used in this Act unless the context requires otherwise:

(a) "Person" shall mean and include any individual or individuals, association, firm, co-partnership, corporation, receiver, trustee, conservator, or other officer appointed by any State or Federal Court.

(b) "Lubricating oil" shall mean any oil or liquid from whatever source derived which is commercially used for the purpose of lubricating the movable parts of any internal combustion engine, or steam engine, except railroad locomotives, and including such oil or liquids so usable irrespective of whether purchased or used for such purpose.

(c) "Dealer" is hereby defined as any person who imports or causes to be imported in the State of Kentucky lubricating oil as herein defined for use, distribution, or sale and delivery in the State of Kentucky and after the same shall reach the State of Kentucky; also any person who produces, refines, manufacturers or compounds lubricating oil in the State of Kentucky for use, distribution or sale and delivery in this state; also any person who receives lubricating oil by tank car, barge or pipe line delivery or other means of transport from any point within this state upon which lubricating oil the license tax levied by this Act has not been paid.

(d) "Department" means the Department of Revenue of the Commonwealth of Kentucky.

(e) Lubricating oil shall be deemed "received" when so designated by the term "received" in this Act when it shall have been caused to be imported into the State of Kentucky by any person for use, distribution, or delivery and sale and when it shall have been placed in any containers of whatever nature for use or subject to withdrawal for use, distribution or sale and delivery. Lubricating oil produced, refined, manufactured or compounded at any refintry in the State of Kentucky by any person shall be deemed to be "received" as the word "received" is used in this Act by such person when the same shall have been loaded into any car, truck or other means of conveyance or transport for delivery within the State of

Kentucky or placed in any tank or other container of whatever nature from which sales or deliveries are made at the refinery where the same is produced, refined, manufactured, or compounded. Lubricating oil imported by any person into the State of Kentucky and received through delivery by boat at a marine terminal for storage, or delivered by pipe line at a pipe line terminal for storage, shall be deemed to have been "received" when the same shall have been loaded into any car, truck or other means of conveyance or transport for delivery within the State of Kentucky or placed in any tank or other container of whatever nature from which sales or deliveries are made at such respective marine or pipe line terminals. Provided that dealers may sell lubricating oil to licensed bonded dealers in the State of Kentucky in transport truck load, carload, or cargo lots withdrawing such lubricating oil from refinery, marine or pipe line terminal storage tanks, without paying the tax on such lubricating oil. In such instances the licensed bonded dealers purchasing such lubricating oil shall be deemed as having "received" such lubricating oil and shall assume responsibility to the State for the payments of the tax thereon and shall report and pay the tax on such lubricating oil purchased and received.

(f) "Accountable losses" of lubricating oil shall be construed to mean that "received" lubricating oil which, through wrecking of transportation equipment, fire, and/or accident, shall have been lost or destroyed; report of such loss made to the Department in a manner and form to be prescribed by the Department and supported by positive and conclusive evidence in the judgment of the Department, of such alleged loss, and confirmed in writing to the reporting dealer by the Department after any investigation deemed necessary by the Department to establish the *bona fide* claim of such loss.

§ 2. *Rate of tax.* A tax of eight cents (8c) per gallon is hereby imposed on all lubricating oil received in this Commonwealth as the word "received" is hereinbefore defined.

No other excise or license tax shall be levied or assessed on the receipt, storage, transportation or sale of lubricating oil by the State or any political subdivision of the State. The tax hereby provided for shall be paid by the dealer receiving such lubricating oil to the State Treasurer in the manner and within the time hereinafter specified. Nothing herein contained shall be construed as authorizing or requiring the collection of such tax upon any lubricating oil after the same shall have been already once taxed under the provisions of this Act.

§ 3. *Distribution of funds.* All taxes, penalties, and interest collected under the provisions of this Act shall be covered into the State Treasury and credited to the General Expenditure Fund.

§ 4. *Records required.* Every dealer receiving lubricating oil in the State of Kentucky shall keep and preserve for a period of two years an accurate record of all such receipts and as well of all production, refining, manufacture, compounding, use, sale, distribution and delivery of lubricating oil together with invoices, bills of lading and any other pertinent records and papers as may be required by the Department. Every person purchasing lubricating oil from a dealer for the purpose of resale shall maintain and keep for a period of one year a record of all such lubricating oil so purchased and sold or used, the amount of tax paid to the dealers as part of the purchase price together with delivery tickets, invoices, bills of lading and such other records as the Department shall require.

§ 5. *Reports required of Refiners and Importers.* Any person who or which produces, refines, manufactures or compounds or otherwise prepares lubricating oil in the State of Kentucky shall on or before the 10th day of each month file a report with the Department on forms prescribed for the purpose and covering the next preceding calendar month of the number of gallons of lubricating oil produced, refined, manufactured or compounded or otherwise prepared, the number of gallons withdrawn from refinery storage and shipped to points outside of the State, the number of gallons withdrawn from refinery storage and shipped to points within the State of Kentucky upon which tax has not been paid, and giving in detail the following data regarding each separate shipment: Date of shipment, number of gallons in each shipment, name of owner and license number of truck, if shipped by transport truck, initial and number of tank car if shipped by rail, name and owner of barge if shipped by water, name and address of person to whom shipped, point of shipment, point of destination and name of carrier to whom delivered for transportation to destination. Any person who or which imports and stores lubricating oil in any marine or pipe line terminal storage in the State of Kentucky shall on or before the 10th day of each month file a report with the Department on forms prescribed for the purpose and covering the next preceding calendar month of the total number of gallons of gasoline unexported and stored, the total number of gallons withdrawn from storage and received, the number of gallons withdrawn from storage and shipped to points outside the State and the number of gallons withdrawn from storage and shipped to points within the State of Kentucky upon which tax has not been paid, and giving in detail the following data regarding each separate shipment: Date of shipment, number of gallons in each shipment, name of owner and license number of truck, if shipped by transport truck, inital and number of tank car if shipped by rail, name and owner of barge if shipped by water, name and address of person to whom shipped, point of shipment, point of destination and name of carrier to whom delivered for transportation to destination.

§ 6. *Reports of Transportation.* Every railroad or other transportation company and every other person, firm, association, partnership or corporation transporting lubricating oil as defined in Section 1 of this Act by whatsoever manner from without the State to points within this State, or between points within the State shall report to the Department on forms prescribed by the Department, showing the name and address of each person, firm or corporation to whom deliveries of lubricating oil have been made, the name and address of the original consignee, if deliveries are made to any other than the original consignee, the name and address of the consignor, the point of origin, the point of delivery, the date of delivery, the number and initials of each tank car, if shipped by rail, the quantity of each shipment and delivery in gallons, the manner of shipment and delivery, and such other information as the Department may require relative to the transportation and delivery of such lubricating oil. Such reports are to include intra-city switching movements of lubricating oil in tank cars or otherwise. Such reports shall be made under oath and shall be filed on or before the last day of every month covering all such deliveries made within the State during the preceding calendar month.

§ 7. *Report of Sales by Counties.* Every dealer shall on or before the last day of the month file a report with the Department showing the total number of gallons sold, distributed or used in each county of the State during the next preceding calendar month.

§ 8. *Reports Required on Lubricating Oil Received.* Every dealer or the treasurer or other proper officer or agent of every dealer shall on or before the last day of each month transmit to the Department a statement under oath or affirmation on such forms as the Department may prescribe of the total number of gallons of lubricating oil received as the term "received" is hereinbefore defined in the State of Kentucky during the next preceding calendar month and the statement shall include the following information:

(a) An itemized statement of the number of gallons of all lubricating oil received during the next preceding calendar month by such dealer which has been produced, refined, manufactured or compounded by such dealers in the State of Kentucky.

(b) An itemized statement of the number of gallons of all lubricating oil received by such dealer in the State of Kentucky from any source whatsoever during the next preceding calendar month as shown by shippers' invoices thereof, other than the lubricating oil falling within the provisions of (a) above, together with a statement showing the date of receipt of such lubricating oil, the name of the person from whom purchased, the date of receipt of each shipment of lubricating oil, the point of origin and the point of destination, the quantity of each of said purchases or shipments, the name of the carrier, the initials and number of each tank car, date of receipt and the number of gallons contained in each car if shipped by rail or the name and owner of the boat, ship, barge or vessel if shipped by water.

(c) An itemized statement of the number of gallons of received lubricating oil, if any, which such dealer has during the preceding calendar month:

(1) Sold to the United States Government or any of its agencies.

(2) Sold for delivery in Kentucky in transport truck, tank car or cargo lots to licensed bonded dealers. Statement shall give a record of all such transport truck, tank car or cargo sales of lubricating oil, giving the date of shipment, the number of gallons contained in each shipment, the name of the owner, and license number of truck, if shipped by transport truck, the initials and number of the tank car if shipped by rail, the name and owner of the boat, barge or vessel and the number of gallons contained therein, if shipped by water, and shall set forth the name of the person to whom sold, point of shipment and point of delivery.

(3) Lost through accountable losses which have been re-

ported to and approved in writing by the Department as provided in Section 1-f of this Act.

(4) Exported or sold for export from the State of Kentucky to any other state or to any foreign country.

(d) Such other information as may be required by the Department.

§ 9. *Receipt and Tax on Inventory.* In addition to the data required in Section 8, the report rendered by any dealer for the first calendar month from and after the date when this Act shall have become effective shall contain a statement of the number of gallons of lubricating oil on hand, untaxed and received (within the meaning of the term ''received'' as defined in Section 1-e of this Act), by such dealers as of the date when this Act shall have become effective. Such lubricating oil shall be deemed to have been received by such dealer in six equal quantities in the first six calendar months following the effective date of this Act, one-sixth of the total quantity in each month and each one-sixth shall be included in computing the tax payable by said dealer for each of said six months.

§ 10. *Computation and Payment of Tax.*

(a) From the total number of gallons of lubricating oil received by the dealer within the State of Kentucky during the next preceding calendar month, the following deductions shall be made:

(1) The total number of gallons of lubricating oil received by the dealer within the State of Kentucky and sold or otherwise disposed of during the next preceding calendar month as set forth in Section 8, paragraph (c), (1)-(2)-(3) and (4), of this Act.

(2) That number of gallons of lubricating oil which shall be equal to one (1%) of the total number of gallons of lubricating oil received by the dealer within the State of Kentucky during the next preceding calendar month, less the total num-

ber of gallons deducted under sub-paragraph (1) next preceding; this deduction being allowed to cover evaporation, shrinkage, unaccountable losses, collection costs, bad debts, handling and reporting the tax.

(b) The tax at the rate of eight cents (8c) per gallon of lubricating oil shall be computed on the number of gallons remaining after the deductions hereinabove set forth have been made and shall constitute the amount of lubricating oil taxable for the next preceding calendar month.

The report required in Section 8 shall be accompanied by a certified or cashier's check payable to the Treasurer of the Commonwealth of Kentucky for the amount of tax due for such preceding month.

§ 11. *Failure to Report and Pay Tax, Penalties Provided.* If any dealer neglects or refuses to make said return, or pay the tax at the time hereinbefore provided, the amount thereof, with an addition of a penalty of twenty per cent (20%) thereof, with interest at the rate of six per cent per annum (6%) from the date when due until paid, shall be paid on an account settled by the Department as other taxes are paid, settled and collected; and, if collected by proceedings in any court, an additional penalty of twenty (20%) shall be collected as is authorized to be collected under Section 4263-4 of the Kentucky Statutes as amended by House Bill number one, of the First Extraordinary Session of 1936.

The said twenty per cent penalty thereon and interest due shall be paid into the State Treasury as part of the tax, and the additional twenty per cent penalty collected by suit shall be distributed as provided in Section 4263-4 of the Kentucky Statutes as amended by House Bill number one, of the First Extraordinary Session of 1936.

§ 12. *Penalties for Violation.* By virtue of the allowance provided herein to dealers for collecting the tax and remitting the same to Department, every dealer is a trust officer of the State, and failure to remit lubricating oil tax to the State as provided herein constittues embezzlement of State funds, and upon conviction under this Section, any individual, or partner, or officer, or agent of any association, partnership or corporation shall be guilty of a misdemeanor and shall be fined not exceeding one thousand dollars ($1,000) or imprisoned in the county jail not exceeding six months, or both so fined and imprisoned, and upon conviction on a second offense under this section, shall be guilty of a felony and shall be imprisoned for not less than one year or more than five years in the State prison.

Provided that in case such violator be other than a natural person, then the principal officer and/or the officer or officers responsible for such violation shall be punished by such imprisonment.

§ 13. *Powers and Duties of the Department.* The administration of this Act is vested in the Department of Revenue, which may prescribe forms and promulgate rules and regulations needed for the enforcement of this Act.

The Department, through a representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment and/or inventory of any person made liable for any tax under the provisions of this Act; to examine witnesses under oath for purposes appropriate for enforcement of this Act; and to examine the books, records, papers, files, equipment and/or inventory of any person for the purpose of determining whether the Act is being violated.

The Department shall have the power to institute legal proceedings by the Attorney General of Kentucky, or any attorney duly authorized by him, for the purpose of ascertaining the amount of tax due and/or enforcing the collection thereof with penalties and interest thereon, and for the purpose of enjoining the operation of the business of the delinquent.

The Department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalty and interest thereon, as set out herein, have an attachment against the property of the person liable for tax or garnishment of his creditors without the execution of bond on the filing of an affidavit showing the nature of the claim, that it is just, the sum which the Department believes the Commonwealth should recover, on any of the grounds provided by the Civil Code of Practice for the issuance of an attachment in civil causes.

§ 14. *Information Privileged.* Any information obtained by the Department or any agent or representative thereof as a result of a report, investigation, or verification herein authorized to be made shall be confidential and any person divulging any such information except upon order of a court of competent jurisdiction or to an officer of the Commonwealth entitled to receive the same in his official capacity shall be fined not less than twenty-five ($25.00) dollars nor more than five hundred ($500.00) dollars.

§ 15. *Restraining Suits.* No suit shall be maintained in any court to restrain or delay the collection of the tax herein imposed on any grounds whatever but the aggrieved taxpayer shall pay under protest the tax as and when due and may at any time within two years after such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in any action in any court, State or Federal, otherwise having jurisdiction of the subject matter for the recovery of the tax so paid with legal interest thereon from the day of payment. If it can be finally determined that said tax or any part thereof was wrongfully collected for any reason, it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected, together with interest thereon; and the Treasurer shall pay the same at once out of the Road Fund of the State in preference to other warrants or claims against the Commonwealth. Separate suits need not be filed for each separate payment by any taxpayer, but recovery may be had in one suit for all suits heretofore paid or not barred by the limitation of two years herein imposed.

§ 16. *Penalties for Failure to Make Returns, to Pay Tax, or to Permit Examination of Records.* Any person or dealer who shall fail, neglect or refuse to make the returns and pay the tax herein prescribed, or shall refuse to permit the Department, its assistants, agents or representatives appointed by it in writing, to examine the books, records, papers, files and equipment of such person or dealer pertaining to the business made taxable by this Act, or who makes any incomplete, false or fraudulent return hereunder, or who does, or attempts to do, anything whatever to avoid a full disclosure of the amount of business done or to avoid the payment of the whole or any part of the tax or penalties due, or who shall fail to keep and preserve records of lubricating oil manufactured, transported, received, used, sold or delivered or make reports as provided in this Act, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than twenty-five ($25.00) dollars nor more than one thousand ($1,000.00) dollars, and in the case the offender is an individual, he may be imprisoned in the county jail not exceeding six months, or both so fined and imprisoned. Provided that in case such violator be other than a natural person then the principal officer and/or officer or officers responsible for such violation may be punished by such imprisonment. Such penalty shall be in addition to the penalty imposed hereinbefore in Section 11 of this Act.

§ 17. *Dealer's License Required.* After this Act shall go into effect, it shall be unlawful for any dealer to receive, use, sell or distribute any lubricating oil or to engage in the sale of lubricating oil within this State unless such dealer is the holder of an uncanceled license issued by the Department to engage in such business. To procure such license every dealer shall file with the Department an application under oath or affirmation and in such form as the Department may prescribe, setting forth:

(a) The name under which the dealer will transact business within the State of Kentucky.

(b) The location, with street number, address, of its principal office or place of business within this State; and if such dealer has more than one place of business within the State, the locations of each place of business.

(c) The name and complete residence address of the owner or the names and addresses of the partners, if such dealer is a partnership, or the names and addresses of the principal officers, if such dealer is a corporation or association; and if such dealer is a corporation organized under the laws of another State, territory or country, it shall also file with such application a certified copy of the certificate or license issued by the Secretary of State of Kentucky showing that such corporation is authorized to transact business in the State of Kentucky. Upon the filing of an application for a license, and concurrently therewith, a bond of the character stipulated and in the amount provided for in Section 18 of this Act shall be filed with the Department. No license shall be issued upon any application unless accompanied by such a bond. In the event that any application for license certificate to transact business as a dealer in the State of Kentucky shall be filed by any person whose license shall at any time heretofore have been canceled for cause by the Department or in case said Department shall be of the opinion that such application is not filed in good faith, or that such application is filed by some person as a subterfuge for the real person in interest whose license or registration shall theretofore have been canceled for cause by said Department, and in any of said events, the Department, after a hearing, of which the applicant, shall have been given five (5) days' notice in writing and in which said applicant shall have the right to appear in person or by counsel and present testimony, shall have and is hereby given the right and authority to refuse to issue to such person a license certificate to transact business as a dealer in the State of Kentucky. The application in proper form having been accepted for filing, and the bond having been accepted and approved, the Department shall issue to such dealer a license in the State of Kentucky, subject to cancellation of such license as provided by law. The license certificate so issued by the Department shall not be assignable, and shall be valid only for the dealer in whose name issued, and shall be displayed conspicuously in the principal place of business of said dealer in the State of Kentucky. The Department shall keep and file all applications and bonds with an alphabetical index thereof, together with a record of all licensed dealers.

It shall be the duty of the Department to publish and keep currently up to date a list of licensed dealers and transmit a copy of such list and all revisions thereto to all licensed dealers.

§ 18. *Bond Required.* Every dealer shall file with the Department a bond in the minimum amount of two thousand dollars ($2,000.00) or an amount equal to three times the maximum monthly tax liability, whichever shall be less and up to a maximum amount sufficient, in the opinion of the Department, the financial rating and reputation of the company considered, to insure payment to the State of Kentucky of the amount of tax and penalties and interest for which the dealer may become liable, on a form to be approved by the Department and with a surety thereon approved by the Department and upon which such dealer shall be the principal obligor and the State of Kentucky shall be the obligee, conditioned upon the prompt filing of true reports and the payment by such dealer to the Treasurer of the State of Kentucky of any and all lubricating oil excise taxes which are now or which hereafter may be levied or imposed by the State of Kentucky together with any and all penalties and/or interest thereon, and generally upon faithful compliance with the provisions of this Act. In the event that liability upon the bond thus filed by the dealer with the Department shall be discharged or reduced, whether by judgment rendered, payment made or otherwise, or if in the opinion of the Department any surety on the bond theretofore given shall have become unsatisfactory or unacceptable, then the Department may require the dealer to file a new bond with satisfactory sureties in the same amount, failing which the Department shall forthwith cancel the license certificate of said dealer. If such new bond shall be furnished by said dealer as above provided, the Department shall cancel and surrender the bond of said dealer for which such new bond shall be substituted. In the event that upon hearing, of which the dealer shall be given five (5) days' notice in writing, the Department shall decide that the amount of the existing bond is insufficient to insure payment to the State of Kentucky of the amount of the tax and any penalties and interest for which said dealer is or may at any time become liable, then the dealer shall forthwith, upon the written demand of the Department file an additional bond in the same manner and form with a surety thereon approved by the Department to be necessary to secure at all times the payment by such dealer to the State of Kentucky of all taxes, penalties, and interest due under the provisions of this Act, failing which the Department shall forthwith cancel the license certificate of said dealers. Any surety on any bond furnished by any dealer as above provided shall be released and discharged from any and all liability to the State of Kentucky accruing on such bond after the expiration of sixty (60) days from the date upon which such surety shall have lodged with the Department written request to be released and discharged. Provided, however, that such request shall not operate to relieve, release or discharge such surety from any liability already accrued, or which shall accrue, before the expiration of said sixty-day period. The

Department shall promptly on receipt of notice of such request notify the dealer who furnished such bond, and, unless such dealer shall on or before the expiration of such sixty-day period file with the Department a new bond with a surety satisfactory to the Department in the amount and form hereinbefore in this Section provided, the Department shall forthwith cancel the license of said dealer. If such new bond shall be furnished by said dealer as above provided, the Department shall cancel and surrender the bond of said dealer for which such new bond shall be substituted.

§ 19. *Cancellation of License.* If any dealer shall at any time file a false monthly report of the data or information required by this Act, or shall fail, refuse or neglect to file the monthly report required by this Act, or to pay the full amount of the tax as required by this Act, the Department may forthwith cancel the license of said dealer and notify such dealer in writing of such cancellation by registered mail to the last known address of such dealer appearing on the files of the Department. The Department is hereby given the power to cancel any license hitherto or hereafter issued to any dealer, such cancellation to become effective sixty (60) days from the date of receipt of the written request of such dealer for cancellation thereof or said Department may cancel the license of any dealer upon investigation and sixty (60) days' notice mailed to the last known address of such dealer if it shall ascertain and find that the person to whom such license has been issued is no longer engaged in the receipt, use or sale of lubricating oil as a dealer, and has not been so engaged for the period of six (6) months prior to such cancellation. But no such license shall be canceled upon the request of any dealer until and unless the dealer shall, prior to the date of such cancellation, have paid to the State of Kentucky all excise taxes payable under the laws of the State of Kentucky, together with any and all penalties and fines accruing by reason of any failure on the part of said dealer to make accurate reports as required by this Act and/or to pay such taxes and/or penalties. In the event that the license of any dealer shall be canceled by the Department as hereinbefore in this Section provided, and in the further event that said dealer shall have paid to the State of Kentucky upon the receipt, sale or use of lubricating oil, together with any and all penalties accruing by reason of any failure on the part of said dealer to make accurate reports or to pay said tax and/or penalties, then the State Tax Commission shall cancel and surrender the bond theretofore filed by said dealer.

§ 20. *Penalty for Operation without License.* Any person who shall engage in business of selling lubricating oil in the State of Kentucky as a dealer without the holder of an uncanceled license to engage in such business, or who shall, without such license, sell, or use any lubricating oil upon which the tax herein imposed shall not have been reported and paid shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred ($100.00) dollars nor more than one thousand ($1,000.00) dollars or by imprisonment in the county jail for not less than thirty (30) days or more than one (1) year or both so fined and imprisoned in the discretion of the jury. Each day or part thereof during which any person shall engage in business as a dealer without being the holder of an uncanceled license shall constitute a separate offense within the meaning of this Section. Provided that in case such violator be other than a natural person, then the principal officer and/or the officer or officers responsible for such violation may be punished by such imprisonment.

§ 21. *Exchange of Information with Other States.* The Department shall, upon request duly received from the officials to whom are entrusted the enforcement of the lubricating oil tax laws of any other State, forward to such officials any information which it may have in its possession relative to the manufacture, receipt, sale, use, transportation and/or shipment by any person of lubricating oil. Provided, however, this Section shall not apply unless such State extend to this State a similar privilege.

§ 22. *Separability Clause.* The provisions of this Act are severable and if any of its provisions or any penalty provided by this Act shall be held unconstitutional, such provision or the particular penalty held to be invalid shall not affect or impair the remainder of the Act or such part of the penalties as are not held to be invalid and the decisions of the courts shall not affect or impair the remaining provisions of this Act or any of the other penalties anywhere in this Act provided. It is hereby declared as a legislative intent that this Act would have been adopted had any unconstitutional provisions or such invalid penalties not been included therein.

§ 23. *Emergency.* Whereas the present State revenue does not meet the immediate needs of maintenance of the State government, an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor.

By Same:

H. B. 45. An Act relating to revenue and taxation imposing a license tax on race tracks at which horse racing shall be conducted for any stake, purse or prize under the jurisdiction of the State Racing Commission, which license tax shall be in lieu of certain other taxes to the Commonwealth of Kentucky or any county, city, town, municipality or other political subdivision thereof; also imposing a tax of fifteen cents on admissions to said race tracks, with certain exceptions, and providing for the collection of said tax by said race track and providing for reports to the Department of Revenue in connection therewith and providing for the payment thereof and repealing all laws or parts of laws in conflict herewith, and declaring an emergency to exist.

Said bill is as follows, viz.:

Whereas, the Legislature finds as a fact that a race track located in a county of two hundred thousand (200,000) population is able finally by reason of such population to pay a higher license tax than race tracks located in counties of less population; and,

Whereas, the Legislature finds as a fact that a race track located in a county of seventy-two thousand (72,000) and under two hundred thousand (200,000) population is able financially by reason of such population to pay a higher license tax than race tracks located in counties of less population; and,

Whereas, the Legislature finds as a fact that race tracks in all other counties are unable financially to pay the same license tax as race tracks located in counties of greater population than seventy-two thousand (72,000) by reason of said population:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That every person, firm, fiduciary, association or corporation engaged in the business of conducting a race track at which races are run for stakes, purses or prizes under the jurisdiction of the Kentucky State Racing Commission, shall pay to the Commonwealth of Kentucky a license tax therefor, as follows:

§ 2. Any such race track located within a county with a population of two hundred thousand (200,000) or over, shall pay for each day upon which races are conducted at such track for any stake, purse or prize, a license tax of twenty-five hundred dollars ($2,500.00) per day, and any such race track located within a county having a population of not less than seventy-two thousand (72,000) and not more than two hundred thousand (200,000), shall pay for each day upon which races are conducted at said track for any stake, purse or prize, a license tax of one thousand dollars ($1,000.00) per day, and in all other counties any such race tracks located therein shall pay for each day upon which races are conducted for any stake, purse or prize, a license tax of five hundred dollars ($500.00) per day.

§ 3. Each person entering the grounds or enclosure of any race track whereat a race meeting is being conducted, for the purpose of attending the races, or for any other purpose connected therewith, under the jurisdiction of the Kentucky State Racing Commission, shall pay a tax of fifteen cents (15c) to the Commonwealth of Kentucky, except as herein provided for. If tickets good for more than one day are issued, then the sum of fifteen cents (15c) shall be paid by each person using such ticket on each day that the same shall be used; provided, however, that no admission tax shall be collected from or charged any of the employees of the said race track, or any of the owners or trainers of horses, or jockeys, or their employees. The admission tax herein provided for shall be collected by the said race track from each person on entering the race track or enclosure on a paid or free admission, and said race track shall account to and pay to the Commonwealth of Kentucky the money so collected from persons subject to the tax herein provided.

§ 4. It shall be the duty of each person, firm, fiduciary, association or corporation engaged in the business of conducting a race track to furnish the Commissioner of Revenue, within thirty (30) days after the end of each race meeting a verified report of the number of days on which races were conducted on the said race track during the meeting, and at the same time a verified report of the number of persons (subject to the tax levied herein), entering the grounds or enclosure during the race meeting, and at the same time pay to the Commonwealth of Kentucky the correct amount due to the Commonwealth of Kentucky by said race track at the rate per day herein fixed and provided, and the correct amount due to the Commonwealth of Kentucky by said race track by reason of the collection of the tax from persons entering the grounds or enclosure of said race track as herein provided for.

§ 5. The administration of this Act is vested in the Department of Revenue, which may prescribe forms and promulgate rules and regulations needed for the enforcement of this Act.

The Department, through a representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files and equipment of any person made liable for any tax under the provisions of this Act and to examine witnesses under oath for purposes appropriate for enforcement of this Act.

The Department shall have the power to institute legal proceedings by the Attorney General of Kentucky or any attorney duly authorized by him for the purpose of ascertaining the amount of tax due and/or enforcing the collection thereof with penalties and interest thereon, and for the purpose of enjoining the operation of the business of the delinquent.

The Department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalty and interest thereon, as set out herein, have an attachment against the property of the person liable for tax or garnishment of his creditors without the execution of bond on the filing of an affidavit showing the nature of the claim, that it is just, the sum which the Department believes the Commonwealth should recover, and any of the grounds provided by the Civil Code of Practice for the issuance of an attachment in civil causes.

§ 6. Any person, firm, fiduciary, association or corporation who shall fail to pay the tax due in the time specified in this Act shall pay a penalty equal to twenty per cent (20%) of the amount of tax due and delinquent, together with interest at six per cent (6%) per annum on both the original tax and the penalty.

Any person, firm, fiduciary, association or corporation who shall violate the provisions of this Act shall be deemed guilty of a misdemeanor and shall be fined not more than one thousand dollars ($1,000.00) or imprisoned in the county jail not more than thirty (30) days, or both so fined and imprisoned. Provided, that if the offender be a corporation the principal officer and/or the officer or employee directly responsible for such violation shall be punished as heretofore set out.

§ 7. The license tax and admission tax herein imposed shall be in lieu of all other license, excise special or franchise taxes to the Commonwealth of Kentucky, or any county, city, town, municipality, or other political subdivision thereof; and no county, city, town, municipality, or other political subdivision of the Commonwealth of Kentucky shall be authorized or empowered to levy or impose any license, income, excise, special or franchise tax on any such person or persons, firm or firms, association or associations or corporations engaged in the business of conducting a race track at which races are conducted for stakes, purses, or prizes, or on the operation or maintenance of any pari-mutuel machine or similar devices, or on the sale of any commodity or merchandise during the conducting of races thereon by any such person or persons, firm, fiduciary, association or corporation.

§ 8. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

§ 9. Whereas the present State revenue does not meet the immediate needs of the maintenance of the State government, its agencies and subdivisions, an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor.

Ordered that said bills be printed and referred to Committee on Revenue and Taxation No. 1.

Mr. Joe Robinson moved that the House do now recess until eleven-thirty o'clock A. M.

Said motion was agreed to.

And then the House recessed.

The hour of eleven-thirty o'clock A. M. having arrived, the Speaker resumed the Chair and called the House to order.

Mr. Brown of the Committee on Revenue and Taxation No. 1 to which the same had been previously referred, reported bills of the following titles, viz.:

H. B. 41. An Act relating to revenue and taxation on gasoline and repealing certain sections and declaring an emergency.

H. B. 45. An Act relating to revenue and taxation, imposing a license tax on race tracks at which horse racing shall be conducted for any stake, etc.

With the expression of opinion that said bills ought to pass.

Said bills were each read at length the first time and ordered to be placed on the Calendar.

The Speaker presented His Excellency, the Hon. A. B. Chandler, Governor of Kentucky, who addressed the House and introduced the Hon. Alben W. Barkley, United States Senator from Kentucky, who also gave a short address.

Mr. Joe E. Robinson moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

MONDAY, APRIL 20, 1936.

The House was opened with prayer by the Reverend Father O'Dwyer of the Roman Catholic Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Joe E. Robinson

John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
John Kirtley, Spkr.

Mr. Davis moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Thomas moved that the privilege of the floor be extended to Judge Clyde Alexander.

Said motion was agreed to.

Mr. O. C. Jones moved that the privilege of the floor be extended to Mr. Charles Cobb of Owenton, Kentucky.

Said motion was agreed to.

Mr. Gnau moved that the privilege of the floor be extended to Mr. R. P. Arthur of Louisville, Kentucky.

Said motion was agreed to.

Mr. McConnell moved that the privilege of the floor be extended to Mr. Brown and Mr. Danah of Crittenden County.

Said motion was agreed to.

Mr. Wall moved that the privilege of the floor be extended to Mr. Willard Wagoner of Mayfield, Kentucky.

Said motion was agreed to.

Mr. Mayfield moved that the privilege of the floor be extended to Mr. Perry Roscoe Brown of Mayfield, Kentucky.

Said motion was agreed to.

Mr. Claxon moved that the privilege of the floor be extended to Mr. Leslie Hagerman and Raymond Nall.

Said motion was agreed to.

Mr. Douglas Bolling moved that a leave of absence be granted to Mr. Riley.

Said motion was agreed to.

Dr. Shields moved that the session of today be extended indefinitely.

Said motion was agreed to.

Upon a call of the Counties and Legislative Districts, the following bills were introduced, viz.:

By Mr. Joe Robinson:

H. B. 46. An Act concerning revenue and taxation and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* Whenever used in this Act unless the context requires otherwise:

(a) "Manufacturer" shall mean and include any person engaged in the manufacture or production of cigarettes;

(b) "Wholesaler" shall mean and include any person who sells at wholesale or who distributes cigarettes for the purpose of being sold at retial. The term includes any manufacturer, distributor, jobber, broker, agent, or other person, whether or not enumerated in this section, who so sells or so distributes;

(c) "Retailer" shall mean and include any person who sells to a consumer or to any person for any purpose other than resale;

(d) "Department" shall mean and include the Department of Revenue of the Commonwealth of Kentucky;

(e) "Person" shall mean and include any individual, firm, partnership, association, corporation, or other group or combination acting as a unit.

§ 2. There is hereby imposed on the sale of cigarettes made of tobacco or any substitute therefor one cent (1c) on each ten cents (10c) or fractional part thereof of the retail selling price.

§ 3. The taxes imposed by this Act shall be paid by affixing stamps in the manner and at the time herein set forth. The stamps shall be affixed to each individual package of cigarettes by the manufacturer of such cigarettes when and as sold, if such cigarettes are manufactured within the State of Kentucky, otherwise they shall be so stamped by wholesalers within seventy-two (72) hours after such cigarettes are received by them. If received by retailers, they shall be stamped within twenty-four (24) hours after their receipt by him.

All cigarettes must be stamped before being sold in this State.

§ 4. The stamps required herein to be affixed to the box or container in which, or from which, cigarettes are normally sold to retailers shall be so affixed that the boxes or containers cannot be opened without breaking the stamp; and it shall be so affixed as to require the continued application of steam or water to remove without opening the said box or container.

§ 5. The stamps provided for in this Act shall be purchased from the Department and from no one else. Said Department is empowered to prescribe rules and regulations governing the sale and distribution of said stamps.

§ 6. Where any cigarettes for sale of which a tax is herein imposed are manufactured for shipment and sale without the State, the said manufacturer shall affix thereon, in the same manner as the other stamps herein provided for are required to be affixed, an export stamp to be furnished without cost by said Department. In the case of any cigarettes upon which any export stamps herein provided for be sold and shipped to a regular dealer in such article in another state for sale outside the state, the seller in this state shall be entitled to a refund of the actual amount of tax paid, upon condition that he shall make an affidavit that the goods were so sold and shipped, and shall furnish from purchaser written acknowledgment that he has received such goods and as part of said acknowledgment the amount of stamps thereon. The refund may be in the form of stamps of sufficient value to cover said refund or if the seller shall so desire the Department shall certify to the Auditor of Public Accounts the refund to which said seller is entitled, and the Auditor shall draw his order in said amount upon the State Treasury, which shall pay the said refund to said distributor.

§ 7. Whoever removes, washes, restores, alters, or otherwise prepares any of the stamps herein mentioned with intent to use or cause the same to be used after it has already been used; or whoever counterfeits such stamps or knowingly or willfully sells, offers for sale, or gives away any such counterfeit, washed, restored, or altered stamp to any person; or knowingly uses the same or has in his possession any washed, restored, or altered stamps which have been removed from the article to which they have been previously affixed, or any counterfeit stamp; or whoever, for the purpose of indicating the payment of tax hereunder, uses any stamp that has heretofore been used for the purpose of denoting the tax provided in this Act; or prepares, buys, sells or offers for sale, or knowingly has for sale, in his possession any counterfeit stamp shall be guilty of a misdemeanor and upon his conviction shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment for one to five years, or both.

§ 8. Any person required by this Act to affix the stamps as provided by this Act who shall fail properly to affix the stamps within the time prescribed by law, shall be required to pay as part of the tax imposed herein, one hundred per cent (100%) of the amount of the tax due to be assessed and collected by the Department as other taxes are collected, and such tax and penalty thereon shall bear interest at the rate of six per cent (6%) per annum.

Any article required by this Act to bear a stamp found in the place of business of any person engaged in selling cigarettes shall be prima facie evidence that such articles are intended for sale.

§ 9. The administration of this Act is vested in the Department which may prescribe rules and regulations needed for the enforcement of this Act. The Department, or any representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment, and/or inventories of any manufacturer, wholesaler, or retailer, pertaining to sales made taxable by this Act; to examine witnesses under oath with the purpose of verifying returns made by those required by this Act to make returns, or for other purposes involving the enforcement of this Act; and to examine the books, records, papers, files, equipment, and/or inventories of manufacturers, wholesalers, dealers, or carriers for the purpose of verifying the accuracy of the reports under this Act or dealing with this Act. If this Act is being violated the Department shall have power to institute legal proceedings for the purpose of regulating and enforcing the collection therefor, with interest and penalties thereon. The Department may for the purpose of collecting the amount of the tax due with interest thereon have an attachment against the property of the one from whom the tax, penalty, and interest is due or garnishment of his creditors without execution of bond upon the filing of an affidavit alleging the nature of the claim, that it is just, the sum which the Department believes the Commonwealth should recover from the defendant, and any grounds upon which the Civil Code authorizes the issuance of an attachment in civil causes.

Any information obtained by the Department or any agent or representative thereof as a result of the reports or investigations herein required to be made shall be confidential as rspects the individual business. Any person divulging the information, except on order of a court of competent jurisdiction or to an officer of the Commonwealth entitled to receive the same in his official capacity, shall be fined a sum not exceeding five hundred dollars ($500), provided, that this provision shall not prevent publishing statistics of tax receipts and sales if such publication reveals information as concerning the individual business of any manufacturer, wholesaler, or retailer.

§ 10. The Department is hereby authorized and directed to prescribe the forms of the stamps herein provided for. It shall have such stamps prepared for sale in such manner as it may deem proper. Such stamps shall be sold at their face value. The methods of breaking packages and containers and the methods of affixing the stamps shall be prescribed by the Department in such way as to enforce the provisions of this measure.

§ 11. It is the intent or purpose of this Act to impose the tax herein levied one time upon the sale of cigarettes. Any cigarettes on account of which a tax has been paid shall not occasion payment of a second or other tax regardless of the number of times the cigarettes may be sold within this State.

§ 12. Every manufacturer, wholesaler, and retailer, is hereby required to preserve written records of sales made taxable by this Act, to keep invoices of commodities received by him, and to maintain other records and submit such additional reports as the Department may require for the enforcement of this Act.

§ 13. No suit shall be maintained in any court to enjoin or delay the collection of the tax herein imposed on any grounds whatever. The aggrieved party shall pay the tax under protest as and when due, and may at any time within two years from the date of such payment sue the Commonwealth of Kentucky through its agent, the Auditor of Public Accounts, in an action in any court, state or federal, otherwise having jurisdiction of the parties, and subject matter for recovery of the tax so paid with interest thereon from the date of payment. If it is finally determined that said tax or any part thereof was wrongfully collected for any reason, it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasury of the Commonwealth of Kentucky for the amount of such tax so adjusted to have been wrongfully collected together with interest thereon, and the Treasurer shall pay the same at once out of the General Expenditure Fund of the State in preference to other warrants or claims against the Commonwealth. Separate suits need not be filed for each separate payment made, but recovery may be had in one suit for all sums paid which are not barred by the aforesaid limitation of two years.

§ 14. When any cigarettes, the sales of which is made taxable by this Act, are sold or distributed under such circumstances that the Constitution and laws of the United States preclude imposition of the tax, then such tax shall not apply.

§ 15. Any manufacturer, wholesaler, or retailer who shall fail or refuse to make any return required by the Department of him or shall refuse to permit the Department, its authorized agents or representatives to examine the books, records, papers, files, and/or equipment of such person pertaining to the business made taxable by this Act, or makes an incomplete, false, or fraudulent return hereunder or who attempts to do anything hereunder to evade full disclosure of the facts or to avoid the payment in whole or in part of the tax or interest thereon due shall be deemed guilty of a misdemeanor and upon conviction shall be fined not exceeding one thousand dollars ($1,000) and in case the offender is an individual may be imprisoned in the county jail not exceeding six (6) months, or both. Such fines shall be in addition to other fines and penalties hereunder prescribed.

All revenue derived from the operation of this Act shall as collected be covered into the State Treasury and credited to the General Expenditure Fund.

§ 16. The imposition of the taxes herein provided shall not become effective until one (1) o'clock A. M., three calender weeks from the date this Act is approved by the Governor. Within twenty-four (24) hours thereafter, and before any sale is consummated wholesalers and retailers shall affix the stamps required by this Act on all cigarettes on hand and acquired before the effective date of the imposition of the taxes herein provided.

§ 17. Whereas, the present state revenue does not meet the immediate needs for the maintenance and support of the state government, an emergency is declared to exist; except as otherwise herein provided, and this Act shall become a law effective upon its passage and approval by the Governor.

By Mr. Gough:

H. B. 47. An Act amending and re-enacting Section 4019, Kentucky Statutes, Baldwin's Revision, 1934 Supplement to Carroll's 1930 Edition, Kentucky Statutes.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section four thousand nineteen, Kentucky Statutes, Baldwin's nineteen thirty-four supplement to Carroll's nineteen thirty Edition, Kentucky Statutes, be amended by repealing said Section in its entirety and re-enacting it to read as follows:

An annual ad valorem tax for state purposes of five (5) cents each one hundred dollars ($100) of value of all real estate directed to be assessed for taxation, as provided by law, up to the assessed value of five thousand dollars ($5,000), and thirty (30) cents each hundred dollars ($100) of all assessed value of said real estate exceeding five thousand dollars ($5,000), and fifty (50) cents upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation as provided by law, shall be paid by the owner, firm or corporation assessed; except a tax at the rate of one-tenth of one per cent (one-tenth of one per cent) shall be paid annually upon the amount of deposits in any bank, trust company, or combined bank and trust company, organized under the laws of this State, or in any national bank of this State, as now provided by law; and also including building and loan associations incorporated under the laws of this State, and making loans to members only, which association shall be assessed except as otherwise provided by law in the manner and at the rate now set forth in Chapter fourteen of the Acts of the extraordinary session of the General Assembly of nineteen seventeen (Sections four thousand nineteen a-six, four thousand nineteen a-seven, and four thousand nineteen a-eight of Carroll's Statutes, nineteen thirty edition).

By Mr. Wagner:

H. B. 48. An Act concerning revenue and taxation and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.*

(a) The word "person" as used in this Act includes individuals, co-partnerships, business trusts, joint stock companies, and corporations.

(b) The word "dealer" in this Act includes all persons who are engaged in the sale of motor vehicles at retail.

(c) The term "Department" as used in this Act shall mean the Department of Revenue of the Commonwealth of Kentucky.

(d) "Retail price" shall be determined by the price for which said vehicle with standard equipment sells in the county in which license is applied for (or, if not sold in said county, then in the county nearest said county in which said motor vehicle is sold) by regularly authorized dealers in said motor vehicles if a new car, and if a used car, by the price or value given in the Automotive Reference Manual used by the Department of Revenue.

(e) The word "motor vehicle" as used in this Act shall include all vehicles which are propelled otherwise than by muscular power and which are used for transportation of persons or property over and upon the public highways of the Commonwealth, excepting, however, road rollers and such vehicles as travel exclusively on rails.

§ 2. There is hereby imposed on the use in this Commonwealth of every motor vehicle, at the time it is first registered with the County Clerk for the purpose of procuring licenses and having license tags issued therefor, a tax equal to three per cent on its retail price.

§ 3. There is expressly exempted from the tax imposed by any of the provisions of this Act:

(a) Cars sold to the United States, to this State, to any political division of this State, to any municipality, or to any charitable, religious or educational institution of the Commonwealth of Kentucky.

(b) Used cars regstered or licensed in Kentucky during the same or immediately preceding license period.

(c) Cars owned by a person *bona fide* domiciled in another state and used and licensed in such state by such owner during the same or immediately preceding license period.

§ 4. The tax hereby imposed shall be collected by the County Clerk at the time he collects the registration fee for registering and licensing the said motor vehicle the first time such motor vehicle is offered for registration in the Commonwealth of Kentucky, and shall be accounted for by him to the Department of Revenue as such registration and license fees are by law accounted for, and the said County Clerk shall be paid by the Commonwealth of Kentucky for his services in collecting such tax, an amount equal to two per cent (2%) of the tax so collected and accounted for.

§ 5. The County Clerk shall not register or issue any license tags to the owner of any motor vehicle affected by the provisions of this Act, which motor vehicle is then being offered for registration the first time, unless and until, in addition to the registration fees and license fees imposed by law, the owner shall pay the tax imposed herein.

§ 6. The Department is hereby charged with the enforcement of this Act and may promulgate such rules and regulations and prescribe such forms as are necessary or desirable for the enforcement of its provisions. The Department, or any representative appointed by it in writing, is hereby authorized to examine the books, records, papers, inventories, and files of any dealer pertaining to cars the use of which is made taxable by this Act; to examine witnesses under oath for the purpose of verifying the accuracy of returns made; and to examine the books, records, papers, and files of dealers for the purpose of verifying reports made under the provisions of this Act or of determining whether or not the Act is being violated.

The Department shall have the power to institute legal proceedings for the purpose of ascertaining the amount of tax due under the provisions of this Act and to enforce the collection thereof with the penalties and interest thereon.

§ 7. No suit shall be maintained in any court to restrain or delay the collection of the tax herein imposed on any ground whatever, but the aggrieved person shall pay under protest the tax as and when due and may at any time within two (2) years after the date of such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in an action in any court, State or Federal, otherwise having jurisdiction of the subject mater for the recovery of the tax so paid with legal interest thereon from the date of payment. If it can be finally determined that said tax or any part thereof was wrongfully collected for any reason, it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected, together with interest thereon; and the Treasurer shall pay the same at once out of the General Expenditure Fund of the State in preference to other warrants or claims against the Commonwealth. Separate suits need not be filed for each separate payment, but recovery may be had in one suit for all suits heretofore paid or not barred by the limitation of two (2) years herein imposed.

§ 8. All revenues derived from the operation of this Act, shall as collected, be covered into the State Treasury and credited to the General Expenditure Fund.

§ 9. Any person violating any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000.00), and in case the offender is an individual, may be imprisoned in the county jail not exceeding six (6) months, or both so fined and imprisoned.

§ 10. Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State government and its agencies, an emergency is declared to exist and this Act shall become a law and be effective on its passage and approval by the Governor.

By Mr. John C. Robinson:

H. B. 49. An Act to repeal Section 7 of Chapter 74 of the Acts of 1926, being an Act relating to revenue and taxation, providing for corporation license tax for certain corporations, providing the manner of making reports and determining the amount of tax and the manner of paying same, prescribing penalties and repealing existing statutes; said section now being Section 4189-7 of Carroll's Kentucky Statutes, 1930 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 7 of Chapter 74 of the Acts of 1926, being an Act relating to revenue and taxation, providing for corporation license tax for certain corporations, providing the manner of making reports and determining the amount of tax and the manner of paying same, prescribing penalties and repealing existing statutes; said section now being Section 4189-7 of Carroll's Kentucky Statutes, 1930 Edition, be and the same is hereby repealed.

Ordered that said bills be printed and referred to Committee on Revenue and Taxation No. 1.

Mr. Myers moved that the House do now recess until four-thirty o'clock P. M.

Mr. Wells moved that the House do now adjourn.

Said last named motion was disagreed to.

Said motion as made by Mr. Myers was then agreed to.

And then the House recessed.

The hour of four-thirty o'clock P. M., having arrived, the Speaker resumed the Chair and called the House to order.

The House took up for consideration from the Calendar bills of the following titles, viz.:

H. B. 41. An Act relating to revenue and taxation of gasoline and repealing certain sections and declaring an emergency.

H. B. 45. An Act relating to revenue and taxation; imposing a license tax on race tracks at which horse racing shall be conducted for any stake, etc.

Ordered that said bills be read the second time.

The constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 9. An Act providing a license tax on the business or occupation of cemetery memorial dealers and on salesmen selling or offering to sell cemetery monuments, memorials or markers or soliciting orders therefor and providing a penalty for the violation of the provisions thereof.

Mr. Wells moved that said bill be made a Special Order of the Day for tomorrow at two o'clock P. M.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 37. An Act relating to revenue and taxation for the sale of vinous and spirituous liquors, repealing, amending and re-enacting the last paragraph of Section 6, Article IV, Chapter 146, Acts of the General Assembly of 1934, codified as Section 2554b-16, Baldwin's Supplement to Carrol's Kentucky Statutes, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. There is hereby imposed a tax of seven cents (7c) upon the sale or distribution by gift or sale of spirituous liquors in containers of half pint and less in size.

§ 2. The last paragraph of Section 6, Article IV, Chapter one hundred and forty-six (146), of the Acts of the General Assembly of 1934, is hereby repealed, amended and reenacted so that when reenacted, it shall read as follows: "All such sales shall be in unbroken packages in either quart, one-fifth gallon, pint, and half-pint sizes, except in the case of spirituous liquors which may be sold in two-ounce (2 oz.) containers, and the same shall not be opened or the contents of any part consumed on the premises where purchased."

§ 3. Whereas the present State revenue does not meet the immediate needs for the maintenance of the State government and its agencies an emergency is declared to existand this Act shall become a law and be effective on its passage and approved by the Governor.

Be it provided, however, that pending preparation of stamps and the development of other administrative plans, this bill shall be effective on such date as the Governor shall proclaim.

Mr. Douglas Bolling moved the Previous Question.

Thereupon the Speaker announced, "Shall the Main Qustion be now put?"

Which was decided in the affirmative.

Mr. W. T. Baker moved that said bill be recommitted.

Said motion was disagreed to.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and rejected.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Douglas Bolling
Wallace Brown
V. O. Chandler
Floyd Clark
Roy Conway
Walter R. Fannin
T. P. Fitzpatrick
Price Holbrook
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. F. Ladd
T. B. McConnell
W. E. Mull
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
Bruce Sloan
H. C. Steely
J. J. Thomas
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams

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Those who voted in the negative were—

C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
C. M. Ballard
B. F. Bedford
Reuben J. Boling
Ollie J. Bowen
Dr. R. A. Byers
Jas. C. Carter
George S. Clay
J. A. Coleman
Herbert Cook
Harry Davis
Sam Dever
Stanley S. Dickson
Howard G. Early
Garland Embry
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
J. H. Jones
O. C. Jones
R. T. Kirkman
Robert E. Lee
Lloyd MacDonald
Elmer McGlothen
C. S. Matherly
D. T. Matlack
Duke Mayfield
John B. Mollett
Tyler Munford
Hobart Rayburn
Ray O. Shehan
P. L. Sidebottom
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
Charles Wylie

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Mr. Garnett moved that the vote by which said bill was rejected, be reconsidered.

Said motion was agreed to.

Mr. Garnett moved that the vote by which the Previous Question was ordered, be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Garnett offered the following amendment to said bill, viz.:

Amend H. B. 37 by adding paragraph 2a to said bill on page 2 of the printed bill, between line 8 in Section 1 and line 1 of Section 3, the following:

"Section 2a. Nothing in this Act shall be construed to exempt from the tax levied in this Act, spirituous liquors which are sold in two-ounce containers."

Mr. Garnett moved that said bill and amendment thereto, be laid on the Clerk's desk.

Said motion was agreed to.

Mr. Myers moved that the Rules of this House be suspended for the purpose of allowing the Committee on Revenue and Taxation No. 1 to report.

Said motion was agreed to.

Thereupon Mr. Brown of the Committee on Revenue and Taxation No. 1 to which the same had been previously referred, reported bills of the following titles, viz.:

H. B. 49. An Act to repeal Section 7 of Chapter 74 of the Acts of 1926, being an Act relating to revenue and taxation, providing for corporation license tax for certain corporations, etc.

H. B. 48. An Act relating to revenue and taxation and declaring an emergency.

H. B. 4. An Act entitled an Act providing a tax on Greyhound racing and providing how said tax shall be levied and collected, etc.

With Committee amendments thereto and without an expression of opinion.

H. B. 46. An Act concerning revenue and taxation and declaring an emergency.

With the expression of opinion that said bills ought to pass, with the exception of the one specifically set out above.

Said bills were severally read at length the first time and ordered to be placed on the Calendar.

Dr. Shields moved that the Rules of this House be suspended for the purpose of introducing a bill.

Said motion was agreed to.

Thereupon the following bill was introduced, viz.:

By Mr. Sidebottom:

H. B. 50. An Act relating to revenue and taxation imposing a tax on loose leaf tobacco purchase and declaring an emeregncy.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* Wherever used in this Act unless the context requires otherwise:

(a) ''Person'' shall mean and include individual, partnership, joint stock company, association, fiduciary, corporation;

(b) ''Producer'' shall mean and include any person engaged in farming, cultivating and raising tobacco;

(c) ''Tobacco'' shall mean and include only loose leaf tobacco, of either dark or burley variety;

(d) ''Tobacco warehouseman'' shall mean and include the person engaged in the business of conducting a tobacco warehouse;

(e) ''Department'' shall mean and include the Department of Revenue of the State of Kentucky.

§ 2. Every person who shall purchase tobacco from a producer, whether purchase be made at a tobacco warehouse or directly from the producer shall pay a tax at the following rates: Three mills ($0.003) per pound for burley tobacco, and one mill ($0.001) per pound for dark tobacco. In the case of purchase made at licensed tobacco warehouses, the warehouseman shall collect from each purchaser the amount of tax due and account for same in the manner hereinafter prescribed. In the case of purchases made at other than licensed warehouses, the purchaser shall immediately report to the Department of Revenue showing the amount and type of tobacco so purchased and shall accompany such report with a certified or cashier's check for the amount of the tax.

§ 3. Every licensed tobacco warehouseman shall, on or before the tenth (10th) day of the month following which such purchases are made make a report to the Department on the blanks prescribed by it showing the amount of each purchase, the type of tobacco purchased, the name and address of the purchaser, the name and address of the seller, and such additional information as the Department may require, and shall accompany such report with a certified or cashier's check for the amount of tax due.

§ 4. *Powers of the Department of Revenue.* The administration of this Act is vested in the Department of Revenue, which may prescribe forms and promulgate rules and regulations needed for the enforcement of this Act, including the power to prescribe forms, and blanks for permits. The Department, through a representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment and/or inventory of any person made liable for any tax under the provisions of this Act; to examine witnesses under oath for purposes appropriate for enforcement of this Act; and to examine the books, records, papers, files, equipment and/or inventory of manufacturers, wholesalers, retailers or carriers for the purpose of determining whether the Act is being violated.

The Department shall have the power to institue legal proceedings by the Attorney General of Kentucky, or any attorney duly authorized by him, for the purpose of ascertaining the amount of tax due and/or enforcing the collection thereof with penalties and interest thereon, and the purpose of enjoining the operation of the business of the delinquent.

The Department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalty and interest thereon, as set out herein, have an attachment against the property of the person liable for tax or garnishment of his creditors without the execution of bond on the filing of an affidavit showing the nature of the claim, that it is just, the sum which the Department believes the Commonwealth should recover, and any of the grounds provided by the Civil Code of Practice for the issuance of an attachment in civil causes.

§ 5. *Commissioner of Revenue to Require Information.* The Commissioner of Revenue shall require common carriers to provide information in such form as he may deem wise respecting all shipments of tobacco products to, from, or between persons in Kentucky.

§ 6. *Violation of this Act.* (a) In addition to the remedies herein granted the Commonwealth for such violations, any person who shall violate any of the provisions of this Act shall also be deemed guilty of a misdemeanor and punished by a fine of not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000.00), or by imprisonment of not less than thirty (30) days nor more than one (1) year, or by both such fine and imprisonment. Provided, that in case such violator be a corporation, joint stock company, association or fiduciary, then the principal officer and/or officer or officers responsible for such violation may be punished by such imprisonment.

(b) Any person required under this Act to pay any tax herein imposed who fail to pay the tax due in the time specified in this Act shall pay a penalty equal to twenty per cent (20%) of the amount of the tax due and delinquent together with interest at six per cent (6%) per annum.

§ 7. All revenues collected under the provisions of this Act shall be covered through the Department of Finance into the State Treasury and credited to the General Expenditure Fund.

§ 8. All laws and parts of laws inconsistent herewith are repealed to the extent of their inconsistency.

§ 9. Whereas, the present State revenue does not meet the immediate needs of the maintenance of the State government, its agencies and subdivisions, an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor.

Ordered that said bill be printed and referred to Committee on Revenue and Taxation No. 1.

The hour of six o'clock having arrived, that being the time for the Joint Session, the Senate of Kentucky appeared and in order, entered upon the floor of the House of Representatives and the Hon. Keen Johnson, Lieutenant-Governor and President of the Senate, took the Chair and presided, and the Hon. John Kirtley, Speaker of the House of Representatives, having taken his seat on the right of the President of the Senate, the two Houses were convened in Joint Session which was composed of a majority of the members elected to each body.

After a time His Excellency, A. B. Chandler, Governor of Kentucky, appeared upon the floor of the House and took his place at the Clerk's desk and addressed the General Assembly in Joint Session in regard to the revenue needs of the State.

Senator Gilbert moved that the Joint Session do now dissolve.

Said motion was agreed to.

Thereupon the Speaker resumed the Chair and called the House to order.

Dr. Shields moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

TUESDAY, APRIL 21, 1936.

The House was opened with prayer by the Reverend Father O'Dwyer of the Roman Catholic Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
John Kirtley, Spkr.

Mr. McDonald moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Thomas moved that the privilege of the floor be extended to Judge Clyde Alexander.

Said motion was agreed to.

Mr. McConnell moved that the privilege of the floor be extended to Messrs. Brown and Darrah, of Crittenden County.

Said motion was agreed to.

Mr. Gnau introduced the following bill, viz.:

H. B. 51. An Act relating to revenue and taxation of the gross receipts of utilities and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions*:

(a) The word ''person'' as used in this Act includes individuals, co-partnerships, business trusts, joint tock companies, and corporations.

(b) The term ''gross receipts'' as used in this Act shall be construed to mean the amount received in money, credits, property, or other money's worth, regardless of whether or not the form thereof be enumerated herein. Provided, that in case the business is conducted on credit the consideration shall be deemed to be gross receipts when payment shall be made in cash, property, or other money's worth, regardless of whether or not the form be numerated herein.

(c) The term "taxpayer" as used in this Act includes all persons required hereunder to make reports and pay the tax or taxes imposed by this Act.

(d) The term "Department" as used in this Act shall mean the Department of Revenue of the Commonwealth of Kentucky.

(e) The word "sale" as used in this Act includes the transfer of services for valuable consideration as well as similar transfers of property.

(f) The word "gas" as used in this Act shall mean the substance or substances commercially known as "illuminating gas."

§ 2. An excise tax is hereby imposed on the sale of electric current, water, artificial, natural or mixed gas, and on furnishing the ways or means for the transmission of the voice or messages other than those transmitted by United States Mail from one person in the Commonwealth to another person in the Commonwealth, equal to three per cent (3%) of the aggregate gross receipts of such persons so engaged in such respective businesses; and every such person is required to collect the tax from the purchaser and account to the State of Kentucky for such tax in the manner provided in this Act. Provided, however, that no tax shall be imposed upon the transmission of the voice and/or messages for, or upon sales of electric current, water, artificial, natural or mixed gas to, the United States, this State, any Kentucky municipality, any political subdivision of this State, or any charitable, religious, or educational institution in Kentucky; and provded, further, that no tax is by this section imposed upon sales of electric current, water, artificial, natural or mixed gas for the purpose of resale, nor upon the sale of electric current or artificial or natural gas for use in manufacturing, processing, mining or refining. Sales of electric current, water, artificial, natural or mixed gas, in interstate commerce are specifically excluded from the provisions of this Act.

§ 3. The taxpayer is hereby required to keep and preserve such written and other records as the Department may require to facilitate enforcement of this Act. On or before the expiration of fifteen (15) days following the end of each month, beginning with the month after which this Act becomes effective, the taxpayer shall mail to or file with the Department a verified written report of the total gross receipts made during the preceding month, together with such additional information as the Department may require for enforcement of this Act, and shall remit with said report the amount of tax due under Section 2 of this Act. Provided, however, that the Department, on the basis of information herein authorized to be secured or on the basis of an audit of the return, may require additional payments if found to be due.

§ 4. The Department is hereby charged with the enforcement of this Act and may promulgate such rules and regulations and prescribe such forms as are necessary or desirable for the enforcement of its provisions. The Department, or any representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment and/or meters of any taxpayer pertaining to the gross receipts made taxable by this Act; to examine witnesses under oath for the purpose of verifying the accuracy of returns made by taxpayers; and to examine the books, records, papers, files, equipment and/or meters of manufacturers, wholesale dealers, or carriers, including pipe line companies, for the purpose of verifying reports made under the provisions of this Act or of determining whether or not the Act is being violated.

The Department shall have the power to institute legal proceedings for the purpose of ascertaining the amount of tax due under the provisions of this Act and to enforce the collection thereof with the penalties thereon. The Department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalties and interest thereon, as set out herein, have an attachment against the property of the taxpayer or garnishment against his creditors without the execution of a bond upon the filing of an affidavit alleging the nature of the claim, that it is just, the sum which the Department believes the State should recover from the taxpayer, and any of the grounds upon which the Civil Code of Practice authorizes the issuance of an attachment in civil causes.

§ 5. Any information obtained by the Department or any agent or representative thereof, as a result of the reports, investigations, or verifications herein authorized to be made, shall be confidential and any person divulging any such information, except upon order of a court of competent jurisdiction or to an officer of the Commonwealth entitled to receive the same in his official capacity, shall be fined not exceeding five hundred dollars ($500.00).

§ 6. No suit shall be maintained in any court to restrain or delay the collection of the tax herein imposed on any ground whatever, but the aggrieved taxpayer shall pay under protest the tax as and when required and may at any time within two (2) years after date of such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in an action in any court, State or Federal, otherwise having jurisdiction of the subject matter for the recovery of the tax so paid with legal interest thereon from the date of payment. If it be finally determined that said tax or any part thereof was wrongfully collected for any reason it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected, together with interest thereon; and the Treasurer shall pay the same at once out of the General Expenditure Fund of the State in preference to other warrants or claims against the Commonwealth. Separate suits need not be filed for each separate payment by any taxpayer, but recovery may be had in one suit for all amounts theretofore paid and not barred by the limitation of two (2) years herein imposed.

§ 7. Any taxpayer who shall fail or refuse to make the returns herein prescribed or shall refuse to permit the Department, its agents, or representatives appointed by it in writing, to examine books, records, papers, files, equipment and/or meters of such persons pertaining to the gross receipts made taxable by this Act, or who makes an incomplete, false, or fraudulent return hereunder, or who does or attempts to do anything whatever to avoid full disclosure of the amount of business done or to avoid the payment of the whole or any part of the tax or penalties due, shall be guilty of a misdemeanor and upon conviction shall be fined not exceeding one thousand dollars ($1,000.00) and, in case the offender is an individual, may be imprisoned in the county jail not exceeding six (6) months or both so fined and imprisoned, provided that in case such violator be a business trust, joint stock company, corporation or fiduciary, the principal officer and/or the officer or officers responsible for such violation may be punished by such imprisonment. Such fine shall be additional to other fines and/or penalties herein provided. Any taxpayer who shall fail to pay the tax due hereunder in the time specified in this Act shall pay a penalty equal to twenty per cent (20%) of the amount of tax due and delinquent and in addition thereto interest at the rate of six per cent (6%) per annum on both the original amount of tax and the penalty imposed in this paragraph.

§ 8. All revenues derived from the operation of this Act, shall, as collected, be covered into the State Treasury and credited to the General Expenditure Fund.

§ 9. Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State government and its agencies, an emergency is declared to exist; and this Act shall become a law and be effective on its passage and approval by the Governor.

Ordered that said bill be printed and referred to the Committee on Revenue and Taxation No. 1.

Dr. Shields moved that the Rules of this House be suspended for the purpose of taking up for consideration the Orders of the Day.

Said motion was agreed to.

Thereupon the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 45. An Act relating to revenue and taxation imposing a license tax on race tracks at which horse racing shall be conducted for any stake, purse or prize under the jurisdiction of the State Racing Commission, which license tax shall be in lieu of certain other taxes to the Commonwealth of Kentucky or any county, city, town, municipality or other political subdivision thereof; also imposing a tax of fifteen cents on admissions to said race tracks, with certain exceptions, and providing for the collection of said tax by said race track and providing for reports to the Department of Revenue in connection therewith and providing for the payment thereof and repealing all laws or parts of laws in conflict herewith, and declaring an emergency to exist.

Said bill as follows, viz.:

Whereas, the Legislature finds as a fact that a race track located in a county of two hundred thousand (200,000) population is able financially by reason of such pouplation to pay a higher license tax than race tracks located in counties of less population; and, Whereas, the Legislature finds as a fact that a race track located in a county of seventy-two thousand (72,000) and under two hundred thousand (200,000) population is able financially by reason of such population to pay a higher license tax than race tracks located in counties of less population; and,

Whereas, the Legislature finds as a fact that race tracks in all other counties are unable financially to pay the same license tax as race tracks located in counties of greater population than seventy-two thousand (72,000) by reason of said population:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That every person, firm, fiduciary, association or comporation engaged in the business of conducting a race track at which races are run for stakes, purses or prizes, under the jurisdiction of the Kentucky State Racing Commission, shall pay to the Commonwealth of Kentucky, a license tax therefor, as follows:

§ 2. Any such race track located within a county with a population of two hundred thousand (200,000) or over, shall pay for each day upon which races are conducted at such track for any stake, purse or prize, a license tax of twenty-five hundred dollars ($2,500.00) per day, and any such race track located within a county having a population of not less than seventy-two thousand (72,000) and not more than two hundred thousand (200,000), shall pay for each day upon which races are conducted at said track for any stake, purse or prize, a license tax of one thousand dollars ($1,000.00) per day, and in all other counties any such race tracks located therein shall pay for each day upon which races are conducted for any stake, purse or prize, a license tax of five hundred dollars ($500.00) per day.

§ 3. Each person entering the grounds or enclosure of any race track whereat a race meeting is being conducted, for the purpose of attending the races, or for any other purpose connected therewith, under the jurisdiction of the Kentucky State Racing Commission, shall pay a tax of fifteen cents (15c) to the Commonwealth of Kentucky, except as herein provided for. If tickets good for more than one day are issued, then the sum of fifteen cents (15c) shall be paid by each person using such tickets on each day that the same shall be used; provided, however that no admission tax shall be collected from or charged any of the employees of the said race track, or any of the owners or trainers of horses, or jockeys, or their employees. The admission tax herein provided for shall be collected by the said race track from each person on entering the race track or enclosure on a paid or free admission, and said race track shall account to and pay to the Commonwealth of Kentucky the money so collected from persons subject to the tax herein provided.

§ 4. It shall be the duty of each person, firm, fiduciary, association or corporation engaged in the business of conducting a race track to furnish the Commissioner of Revenue, within thirty (30) days after the end of each race meeting, a verified report of the number of days on which races were conducted on the said race track during the meeting and at the same time a verified report of the number of persons (subject to the tax levied herein), entering the grounds or enclosure during the race meeting, and at the same time pay to the Commonwealth of Kentucky the correct amount due to the Commonwealth of Kentucky by said race track at the rate per day herein fixed and provided, and the correct amount due to the Commonwealth of Kentucky by said race track by reason of the collection of the tax from persons entering the grounds or enclosure of said race track as herein provided for.

§ 5. The administration of this Act is vested in the Department of Revenue, which may prescribe forms and promulgate rules and regulations needed for the enforcement of this Act.

The Department, through a representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files and equipment of any person made liable for any tax under the provisions of this Act and to examine witnesses under oath for purposes appropriate for enforcement of this Act.

The Department shall have the power to institute legal proceedings by the Attorney General of Kentucky or any attorney duly authorized by him for the purpose of ascertaining the amount of tax due and/or enforcing the collection thereof with penalties and interest thereon, and for the purpose of enjoining the operation of the business of the delinquent.

The Department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalty and interest thereon, as set our herein; have an attachment against the property of the person liable for tax or garnishment of his creditors without the execution of bond on the filing of an affidavit showing the nature of the claim, that it is just, the sum which the Department believes the Commonwealth should recover, and any of the grounds provided by the Civil Code of Practice for the issuance of an attachment in civil causes.

§ 6. Any person, firm, fiduciary, association or corporation who shall fail to pay the tax due in the time specified in this Act shall pay a penalty equal to twenty per cent (20%) of the amount of tax due and delinquent, together with interest at six per cent (6%) per annum on both the original tax and the penalty.

Any person, firm, fiduciary, association or corporation who shall violate the provisions of this Act shall be deemed guilty of a misdemeanor and shall be fined not more than one thousand dollars ($1,000.00) or imprisoned in the county jail not more than thirty (30) days, or both so fined and imprisoned. Provided, that if the offender be a corporation the principal officer and/or the officer or employee directly responsible for such violation shall be punished as heretofore set out.

§ 7. The license tax and admission tax herein imposed shall be in lieu of all other license, excise, special or franchise taxes to the Commonwealth of Kentucky, or any county, city, town, municipality, or other political subdivision thereof; and no county, city, town, municiplity, or other political subdivision of the Commonwealth of Kentucky shall be authorized or empowered to levy or impose any license, income, excise, special or franchise tax on any such person or persons, firm or firms, association or associations or corporations engaged in the buiness of conducting a race track at which races are conducted for states, purses, or prizes, or on the operation or maintenance of any pari-mutuel machine or similar devices, or on the sale of any commodity or merchandise during the conducting of races thereon by any such person or persons, firm, fiduciary, association or corporation.

§ 8. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

§ 9. Whereas the present State revenue does not meet the immediate needs of the maintenance of the State government, its agencies and subdivisions, an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Harry Davis
Sam Dever
Stanley S. Dickson
Howard G. Early
Garland Embry
Walter R. Fannin
T. P. Fitzpatrick
G. W. Garrett
Ferd A. Gnau
Eugene Gough
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Ira W. Hulette
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Robert E. Lee
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
John Kirtley, Spkr.
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Resolved that the title thereof be as aforesaid.

Mr. Ramey moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 41. An Act relating to revenue and taxation; relating to gasoline, etc.

Mr. Hulette moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

Mr. Garnett moved that the House take up for consideration from the Clerk's desk, a bill entitled:

H. B. 37. (For title see House Journal of yesterday.)

With an amendment thereto.

Said motion was agreed to.

Thereupon the House took up for consideration said bill.

(For bill and amendment, see House Journal of yesterday.)

By unanimous consent, said amendment was withdrawn.

Mr. Garnett offered the following amendment to said bill, viz.:

Amend H. B. 37 by striking from line 5, Section 2, page 1, all of the words beginning with the word "except" and ending with the word "purchased" on line 8, page 2, and inserting in lieu thereof, the following:

"except in the case of spirituous liquors which are contained in two-ounce (2-oz.) containers, that said containers shall not be sold by any licensed dispensary unless such dispensary has obtained a license to sell spirituous liquor by the drink.

That the tax levied upon spirituous liquor contained in two-ounce (2-oz.) containers shall be two cents ($.02) upon each such container of spirituous whiskey.''

Said amendment was agreed to.

Mr. Garnett moved the Previous Question.

Thereupon the Speaker announced, ''Shall the Main Question be now put?''

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
W. T. Baker
B. F. Bedford
Douglas Bolling
Wallace Brown
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
Roy Conway
Herbert Cook
George W. Dunlap
Walter R. Fannin
T. P. Fitzpatrick
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson
J. H. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
John Marshall
D. T. Matlack
Duke Mayfield

John B. Mollett
W. E. Mull
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
J. J. Thomas
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
—65

Those who voted in the negative were—

H. T. Baker
G. M. Ballard
Reuben J. Boling
Dr. R. A. Byers
George S. Clay
J. A. Coleman
Sam Dever
Stanley S. Dickson
Garland Embry
Robert E. Lee
Elmer McGlothen
C. S. Matherly
Hobart Rayburn
Ray O. Shehan
Charles Wylie
—15

Resolved that the title thereof be as aforesaid.

Mr. Douglas Bolling moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Clerk's desk, a bill entitled:

H. B. 20. An Act to repeal subsection (h), Section 17, of Chapter 90 of the Acts of 1920, as amended and reenacted by subsection (h) of Section 1, of Chapter 78 of the Acts of 1924, being an Act relating to vehicles; regulating their use and operation on the public highways of this Commonwealth; providing for the registration and licensing of motor vehicles; fixing the amount of license, and manner of payment thereof;

providing for the registration and licensing of operators of motor vehicles and the amount of such license; providing the method of registration of motor vehicles; and preventing illegal traffic in vehicles; providing penalties for the violation thereof; said subsection now being subsection (h) of Section 2739g-63, of Carroll's Kentucky Statutes, 1930 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That subsection (h), Section 17, of Chapter 90, Acts of 1920, as amended and reenacted by subsection (h), of Section 1, of Chapter 78 of the Acts of 1924, being an Act relating to vehicles; regulating their use and operation on the public highways of this Commonwealth; providing for the registration and licensing of motor vehicles; fixing the amount of license, and manner of payment thereof; providing for the registration and licensing of operators of motor vehicles and the amount of such license; providing the method of registration of motor vehicles; and preventing illegal traffic in vehicles; providing penalties for the violation thereof; said subsection now being subsection (h), of Section 2739g-63, of Carroll's Kentucky Statutes, 1930 Edition, be and the same is hereby repealed.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Henry H. Allen	C. W. Anderson, Jr.

H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Garland Embry
Walter R. Fannin
T. P. Fitzpatrick
G. W. Garrett
Ferd A. Gnau
Eugene Gough
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

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Resolved that the title thereof be as aforesaid.

Mr. Dunlap moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration a bill entitled:

H. B. 16. An Act to repeal, amend and re-enact Chapter 111 of the Acts of the General of 1924, as amended by Chapter 176 of the Acts of the General Asembly of 1926, etc.

With amendments thereto as proposed by the Senate.

(For bill see House Journal of April 8.)

(For amendments as proposed by the Senate see House Journal of April 14.)

Amendments Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 16, 17, 19, 20 and 21 were then concurred in.

Mr. Myers moved that the House refuse to concur in amendments Nos. 12, 15 and 18.

Said motion was agreed to.

Ordered that the Chief Clerk report the action of the House on said bill to the Senate.

Mr. Milam moved that the Rules of this House be suspended for the purpose of reading the Calendar.

Said motion was agreed to.

Thereupon the House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 49. An Act to repeal Section 7 of Chapter 74 of the Acts of 1926, being an Act relating to revenue and taxation, providing for corporation tax for certain corporations, etc.

H. B. 48. An Act relating to revenue and taxation and declaring an emergency.

H. B. 4. An Act entitled an Act providing a tax on Greyhound racing and providing how said tax shall be levied and collected, etc.

With committee amendments thereto.

H. B. 46. An Act concerning revenue and taxation and declaring an emergency.

Ordered that said bills be read the second time.

The constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

The House took up for consideration from the Clerk's desk a bill entitled:

H. B. 41. An Act relatnig to revenue and taxation; relating to gasoline, etc.

Mr. Douglas Bolling moved that the House do now recess until one o'clock P. M.

Said motion was disagreed to.

Mr. Hulette moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day a bill entitled:

H. B. 9. An Act relating to revenue and taxation; providing a license tax on the business or occupation of cemetery memorial dealers and on salesmen selling or offering to sell cemetery monuments, memorials or markers or soliciting orders therefor and providing a penalty for the violation of the provisions thereof.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

As follows:

§ 1. That it shall hereafter be unlawful for any person, firm, association or co-partnership or agent or salesman therefor to engage in the business or occupation of cemetery memorial dealer or salesman of cemetery monuments, memorials or markers, or to sell, offer to sell, or solicit any order or orders therefor, in this state, without first procuring and having a license issued by the county court clerk of the county of his residence authorizing him so to do, if he be a resident of this Commonwealth, and paying the license tax therefor, and a non-resident of this state so doing shall first procure a license and pay said tax in the county in this state in which he or it has or maintains his or its chief business or place of business and all of said dealers, salesmen and agents shall at all times have and submit said license to the inspection of any Commonwealth or county attorney or any conservator of the peace or police officer demanding to see same.

§ 2. Any person desiring to act as a cemetery memorial dealer, or agent for any dealer, or salesman of cemetery monuments, memorials or markers in this state shall file with the county court clerk of the county of his residence, if he be a resident of this state, and if not but intending so to engage then with the said clerk in the county where he has or intends to conduct his chief business or place of business, an application for a license authorizing him so to do, setting forth the following facts:

(a) The kind of license desired.

(b) The name and address of the applicant, and if the applicant be a firm or co-partnership the name and postoffice address of each member thereof together with the chief place of business of said firm; if the applicant be a corporation its chief place of business and the name and address of its president, vice-president, secretary and treasurer, together with the name and address of such person as has been designated with the Secretary of State on whom process may be served, if any, and shall pay to said clerk at said time the license tax provided in this Act.

(c) All applications for such licenses shall be verified by the applicant and every application for a dealer's license in this state under this Act shall be supported by the affidavit of some reputable resident of the county in which application is made that the applicant is trustworthy, and the application for such salesman's license shall be accompanied with like affidavit as to his trustworthiness and in addition thereto with the affidavit of his employer or the chief officer thereof, if such employer is a firm or corporation, stating that the applicant is trustworthy.

"Person" as used in this Act shall be construed to mean and include any individual, firm, co-partnership, association of persons or corporation who shall engage in the business or do any act herein named.

"Dealer" as used in this Act shall be construed to mean and include any individual, firm, co-partnership or corporation who sells or offers for sale at retail any cemetery memorial, monument or marker in this state or solicits such business and has a regular place of business where such memorials are displayed and lettered. "Salesman" or "agent" as used in this Act shall be construed to mean any person other than a dealer as herein defined who sells or offers to sell at retail, or who solicits any order or orders for cemetery memorial or memorials, monument or monuments, or marker or markers in this state, but shall not include the president, vice-president, secretary or treasurer of a corporation, or the designated member of a co-partnership or association who engages in business as a dealer under its dealer's license.

§ 3. The name and address of each of said persons shall be set out in the license of such dealer or salesman respectively.

§ 4. Applicants for a cemetery memorial dealer's license shall when said application is made to the clerk for a license as herein provided pay to said clerk a fee of twenty-five ($25.00) dollars and each applicant for a license as a cemetery memorial salesman shall, when his application is made to said clerk for a license as herein provided, pay to said clerk a fee of twenty ($20.00) dollars, and the clerk shall, if said application meets the requirements of this Act, issue to such person, firm or corporation, such license, for which he shall charge and receive from such applicant a fee of one ($1.00) dollar for each license so issued. The license herein mentioned shall only authorize the person or persons composing a firm or co-partnership, corporation or members thereof and salesmen as herein named to do and perform the acts herein named during the calendar year in which issued, provided it shall be lawful for the clerk to issue to any person who makes a proper application within one month before January 1st of any year for which a license under this Act for the entire succeeding year shall issue which license shall be authority to such person to so engage at any time during said succeeding year.

§ 5. The license tax herein imposed shall be reported by said clerk at the time and in the manner provided for the report of other license taxes collected by him as such clerk due the Commonwealth. Any licensed cemetery memorial dealer may upon any change in the membership of his business firm, co-partnership or corporation or of any of the officers thereof after the issual of such license, procure a transfer thereof to such person as may have succeeded to the position, office or place held by him in such business firm, association, or corporation and any licensed cemetery memorial salesman may within such time procure a transfer thereof to the employment of another dealer or person licensed as such by making such application, or applications, in writing to said clerk, setting out said facts and changes and paying to said clerk a fee of one ($1.00) dollar and the change shall be indorsed on said license and the clerk shall keep a record of all licenses issued under the provisions of this Act as well as all such transfers, which records shall show the names and postoffice addresses of all persons licensed under said Act and all persons authorized to do business under said license.

§ 6. Any person who shall engage in any business or occupation herein named or solicit an order for any article, cemetery memorial, monument, marker, or sell same, or do any other act herein forbidden, or who shall advertise or hold himself out as such dealer or salesman without first having procured a license so to do and paid the license tax herein provided, or who shall otherwise violate any of the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty ($20.00) dollars nor more than two hundred ($200.00) dollars, which may be recovered by warrant, information or by indictment.

§ 7. All licenses issued under this Act shall expire at the close of the calendar year for which issued.

§ 8. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of said Act and the application of the provisions of same to other persons or circumstances named shall also become inoperative, it being the purpose of the Act that same shall operate only as a whole.

Mr. Wells moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and rejected.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
W. T. Baker
B. F. Bedford
Douglas Bolling
Floyd Clark
George S. Clay
Herbert Cook
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Ferd A. Gnau
Eugene Gough
Price Holbrook
Clyde S. Howard
John M. Hunnicut
Ben W. Johnson
O. C. Jones
J. F. Ladd
Leslie Larrimore
Elmer McGlothen
Duke Mayfield
G. S. Milam
John B. Mollett
W. E. Mull
Tyler Munford
A. W. Pfeiffer
Harry C. Records
L. K. Rice
W. T. Rollo
Carl Schneider
P. L. Sidebottom
H. C. Steely
Dr. H. S. Swope
Henry Ward
L. R. Wells

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Those who voted in the negative were—

C. W. Anderson, Jr.
H. T. Baker
G. M. Ballard
Reuben J. Boling
Ollie J. Bowen
Dr. R. A. Byers

Jas. C. Carter
Roscoe Claxon
J. A. Coleman
Roy Conway
Harry Davis
Sam Dever
Walter R. Fannin
T. P. Fitzpatrick
H. Myer Garner
G. W. Garrett
James T. Hamilton
W. L. Hampton, Jr.
Thomas W. Hines
Ira W. Hulette
J. H. Jones
R. T. Kirkman
Robert E. Lee
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
John Marshall
D. T. Matlack
J. C. Nickell
Russell O'Neill
Mel Petry
J. C. Ramey
Hobart Rayburn
Joe E. Robinson
John C. Robinson
Carl Scheben
Ray O. Shehan
Dr. B. F. Shields
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
W. G. Williams
Charles Wylie

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Mr. McCarthy moved that the vote by which said bill was rejected, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Schneider moved that the Rules of this House be suspended for the purpose of introducing bills.

Said motion was agreed to.

Thereupon Mr. Schneider introduced the following bills, viz.:

H. B. 52. An Act relating to revenue and taxation and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

(1) Tax on coal production; distribution of; by whom levied.—Every person, firm, corporation or association mining or producing coal in this state shall annually pay a

tax equal to one per cent of the market value of all such coal so mined or produced, and such taxes shall be for state purposes, and, in addition, any county in the state may impose a like tax for road purposes, county purposes or school purposes not to exceed one-half of one per centum of the market value of all coal produced in the county, or such county, and the fiscal court of any county may levy said tax for county purposes and shall determine what fund or funds shall receive the taxes when collected, and, when coal is produced in any separate taxing district in a county, the fiscal court shall equitably distribute such taxes between the county and such taxing district.

(2) Notice to carriers; transporter to collect tax; county levying tax is to notify department.—Any county imposing the tax provided in Section 1 of this Act hereof shall immediately after the levying of such tax give notice thereof to each transporter of said coal registered in said county, and the transporter of said coal shall, from and after the first day of the month immediately following said notice, proceed as hereinafter provided, to collect such county tax, and shall pay the same to the sheriff of such county in the manner and at the time payment of such taxes shall be required to be made by the Department of Revenue. Each county imposing such a tax shall also, upon the fixing of the levy, certify the same to the Department of Revenue, which shall make the assessment for such county tax in the same manner and at the same value as provided for the state tax, which shall be certified to such county for collection.

(3) When tax attaches.—The tax hereby provided for shall be imposed and attached when the coal is first transported from the mines or other receptacles located at the place of production.

(4) Transporters of coal required to register; clerk to certify to Department.—Every person, firm, association or corporation required to report under Section 5 of this Act

shall register as a transporter of coal in the clerk's office in each county of this State, in which such business is carried on by such transporter of coal, in a book which the Department of Revenue shall provide therefor, showing the name, address, residence and place of business of such transporter of coal, and it shall be the duty of the county clerk of each county to immediately certify to the Department of Revenue a copy of each registration so made.

(5) Transporters of coal, defined; reports to be made by; blanks for.—Every person, firm, association or corporation engaged in the transportation of coal in the state from mines or other receptacles located at the place of production in the State shall, for the purposes of this Act, be considered a transporter of coal, and every such transporter shall make a monthly verified report to the Department of Revenue, on or before the 20th day of the month succeeding the month in which the coal is so received for transportation, showing the quality of each kind or quality of all coal so received from each county in the State and the market value of such coal on the first business day after the tenth day of the month in which such report is made and such report shall show any sales of such coal so received, in which event it shall show the quality and quantity of such coal in each sale, the date of each sale, and the market price of such coal on each date of sale for such preceding month, and said report shall be made upon blanks furnished and prescribed by the Department of Revenue.

(6) Department of Revenue to assess value of coal; notice to transporters; certified to county clerk; sheriff to collect; basis of assessment; transportation charges.—The Department of Revenue hall, upon receiving the reports provided for in Section 5 of this Act, upon such reports and upon such other reports and information as it may secure, assess the value of all grades and kinds of coal so reported for each month, and on or before the last day of the month

in which such reports are required to be made notify each transporter of such coal so reporting of such assessment, and certify such assessment to the county clerk which has reported the levy of the county tax as provided for in Section 2 of this Act for record and such county clerk shall immediately deliver a copy thereof to the sheriff of such county for the collection of such county tax. The transporter so notified of the assessment shall have until the 20th day of the month following such notice in which to be heard by the Department of Revenue on any objection of such assessment, and the assessment shall become final on such 20th day of the month and the tax to be due and payable on that day. The Department of Revenue shall make the assessment of the value of the coal so reported by each transporter of coal as follows:

(a) Where the report shows no sale of coal during the month covered by such report, then the market value of the coal on the first business day after the 10th of the month in which the report is made shall be fixed as the assessed value of all coal covered by such report.

(b) But where the report shows sales of coal during the month covered by such report, if it shows that all coal so reported has been sold, then the market price of such coal on each day of such sale or sales shall be the assessed value of all coal sold on such date of sale, and the total amount of the tax to be reported as the assessment or assessments made on such sale or sales; but if the report shows that any part of the coal so reported remains unsold the market price of the coal or portion of the coal remaining unsold then the market price of the coal on the first business day after said 10th day of the month following the month covered by such report shall be fixed as the assessed value of such portion as the assessment or assessed value of such portion of the coal unsold, and the total amount of the tax to be reported as the assessment on such report shall be the total of the assessments made on such sold and unsold coal.

(c) The Deparment of Revenue in making its assessment shall take into consideration transportation charges.

(7) Transporters liable for taxes; collection from producer.—Every person, firm, association or corporation required to make report as provided in Section 5 of this Act, shall be responsible and liable for the taxes as herein set forth on all coal so received by it, and shall collect from the producer in either money or coal for taxes imposed under provisions of this Act; but if collection is in coal, such transporter is authorized and empowered to sell the same and pay said taxes by check or cash to the Department of Revenue or sheriff as provided in this Act.

(8) Additional reports.—The Department of Revenue may require reports on blanks prepared by it from all producers and transporters in coal or coal, in addition to the reports above provided for, as it may deem necessary, from time to time.

(9) Delinquency, penalty for; misdemeanor.—Any person, firm, association or corporation required to make reports, or collect and pay the taxes hereunder, failing to pay such taxes, penalty or interest, after becoming delinquent; or failing to make any report required by this Act for thirty days after the date upon which the same is required by this Act to be made; or failing for thirty days after engaging in the transportation of coal, as set out herein, to register as required hereby, shall be deemed guilty of misdemeanor, and on conviction shall be fined fifty dollars for each day of such failure, to be recovered by indictment for civic action, and a false report shall be deemed as a failure to report under this Act.

(10) All laws or parts of laws in conflict herewith are hereby repealed.

H. B. 53. An Act relating to the licensing of motor vehicle operators and providing for the definition of terms;

and that operators shall be licensed; persons exempt from licenses; certain exemptions for non-residents from license; what persons shall not be licensed; stipulating age limits for drivers of school busses and public passenger motor vehicles; instruction permits and temporary licenses; application for operator's license or instruction permits; application of minors; designation of circuit court clerks as agent of Department; register of operators to be maintained; licenses issued to operators; duplicate license certificates; license to be signed and carried; expiration of license; court to report convictions and suspension of license; mandatory suspension or revocation of licenses issued by the department; court or department may provide for a hearing and appeal; right of appeal; new license after revocations; when parent, guardian, or employer liable for negligence of minor; owner liable for negligence of minor; violation of license provisions; making false affidavit perjury; unlawful for violations of Act to be permitted; or to drive while license suspended or revoked; unlawful to drive while license suspended or revoked; providing penalty for misdemeanor; providing penalty for driving while license suspended or revoked; *prima facie* evidence of negligence in accident; short title; constitutionality; repeal; and emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definition of terms*:

The following words and phrases when used in this Act shall for the purpose of this Act have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning.

(a) "Vehicle." Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or trucks.

(b) "Motor Vehicle." Every vehicle, as herein defined, which is self-propelled.

(c) "Farm Tractor." Every motor vehicle designed and used primarily as a farm implement for drawing plows, sowing machines and other implements of husbandry.

(d) "Person." Every natural person, firm, co-partnership, association or corporation.

(e) "Owner." A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event of a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this Act.

(f) "Operator." Every person, other than a chauffeur, who is in actual physical control of a motor vehicle upon a highway.

(g) "Non-Resident." Every person who is not a resident of this State.

(h) "Highway." Every way or place of whatever nature open as a matter of right to the use of the public for purposes of vehicular travel. The term "highway" shall not be deemed to include a roadway or driveway upon grounds owned by private persons, colleges, universities, or other institutions.

(i) "Department" shall mean the Department of Revenue of the Commonwealth of Kentucky.

(j) "Commissioner" shall mean Commissioner of Revenue.

§ 2. *Operators shall be licensed:*

Every person except those expressly exempted under Sections 3, 4, and 7 of this Act and except those required to procure chauffeur's license under Carroll's Kentucky Statutes, 1930 Edition, Sections 2739g-15 to 2739g-21 inclusive, before operating any motor vehicle upon any highway in this Commonwealth, shall procure an operator's license. The first license under this Act shall be obtained not later than August 1, 1936. License shall cost One Dollar ($1.00), fifteen cents (15c) to be retained by the Circuit Court Clerk to defray expenses for administering the provisions of this Act, and five cents (5c) shall be forwarded to the Department by the Clerk for the use of the Department for printing of necessary forms, inspections and expenses for administering the provisions of this Act, and the additional eighty cents (80c) derived from the provisions of this Act shall be covered into the State Treasury and credited to the general expenditure fund.

§ 3. *Persons exempt from license:*

(a) No person shall be required to obtain an operator's license for the purpose of driving or operating a road roller, road machinery, or any farm tractor or implement of husbandry temporarily drawn, moved or propelled on the highways.

(b) Every person in the service of the Army, Navy or Marine Corps of the United States and when furnished with a driver's permit and when operating an official vehicle in such official service shall be exempt from license under this Act.

§ 4. *Non-Residents, when exempt from license:*

(a) A non-resident over the age of sixteen years, who has been duly licensed either as an operator under a law requiring the licensing of operators in his home state or country and who has in his immediate possession a valid operator's license issued to him in his home state shall be permitted without license under this Act to drive a motor vehicle upon the highways of this State. Provided, however, that this exemption shall not apply unless such state accord licensed residents of Kentucky the same exemption.

(b) A non-resident over the age of sixteen (16) years whose home state does not require the licensing of operators and who has duly registered his own motor vehicle for the current calendar year in such home state shall be permitted to operate said motor vehicle upon the highways of this state for a period not longer than thirty (30) days in any one year without making application for or obtaining an operator's license under this Act. Provided, however, that such non-resident may be required at any time or place to prove lawful ownership, and the right to operate such motor vehicle and establish his identity.

Provided, however, that the Department of Motor Vehicles reserves the right at any time to refuse or discontinue the exemptions set out in this section for any grounds upon which a license issued under this Act may be revoked or suspended.

(c) Any non-resident or other person whose operator's license or right or privilege to operate a motor vehicle in this State has been revoked or suspended as provided in this Act shall not operate a motor vehicle in this State under a license, permit or registration certificate issued by any other jurisdiction, or otherwise operate a motor vehicle in this State during the period of such suspension, or within one year after the date of such revocation. Any person operating a motor vehicle in violation of this section shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Section 29 of this Act.

§ 5. *What persons shall not be licensed:*

(a) An operator's license shall not be issued to any person under the age of sixteen years.

(b) The Department shall not issue an operator's license to any person whose license as operator has been suspended during the period for which such license was suspended, nor to any person whose license as operator has been revoked under the provisions of this Act, nor to any nonresident whose privilege of exemption under Section 4 of this Act has been refused or discontinued, until the expiration of one year after such license was revoked.

(c) The Department shall not issue an operator's license to any person who it has determined is an habitual drunkard or is addicted to the use of narcotic drugs.

(d) No operator's license shall be issued to any applicant who has previously been adjudged insane or an idiot, imbecile, epileptic, or feeble-minded, and who has not at the time of such application been restored to competency by judicial decree or released from a hospital for the insane or feeble-minded upon a certificate of the superintendent that such person is competent, nor then, unless the Department is satisfied that such person is competent to operate a motor vehicle with safety to persons and property.

(e) The Department shall not issue an operator's license to any person when in the opinion of the Department such person is afflicted with or suffering from such physical or mental disability or disease as will serve to prevent such person from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways, nor shall a license be issued to any person who is unable to understand highway warning or direction signs in the English language.

(f) The Department shall not issue an operator's license to any person who is required by this Act to take an examination unless such person shall have successfully passed such an examination.

(g) The Circuit Court Clerk shall not issue an operator's license to any person who has suffered the loss of either an arm or limb, until such applicant has passed the examination as prescribed by this Act, and the Clerk's recommendations forwarded to the Department and then only shall the Clerk issue a license when so instructed by the Department.

§ 6. *Age limits for drivers of school busses and public passenger-carrying motor vehicles*:

It shall be unlawful for any person, whether licensed under this Act, or not, who is under the age of twenty-one years, to drive a motor vehicle while in use or a school bus for the transportation of pupils to or from school, or to drive a motor vehicle while in use as a public passenger-carrying vehicle.

§ 7. *Instruction permits and temporary licenses*:

(a) Any person who, except for his lack of instructions in operating a motor vehicle, would otherwise be qualified to obtain an operator's license under this Act, may apply for a temporary license and instruction permit, and the Circuit Court Clerk shall issue such permit, entitling the applicant, while having such permit in his possession, to drive a motor vehicle, except a motorcycle, upon the highways for a period of thirty (30) days, but, except when operating a motorcycle, such person must be accompanied by a licensed operator or chauffeur who is actually occupying a seat beside the driver.

§ 8. *Application for operator's license or instruction permit*:

(a) Every application for in instruction permit or for an operator's license shall be made to the Clerk of the Circuit Court upon a form furnished by the Department and shall be verified by the application before a person authorized to administer oaths.

(b) Every said application shall state the full name, date of birth, sex, race, and residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant has hertofore been licensed as an operator, and if so, when and by what state or county, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation or refusal.

§ 9. *Application of minors*:

The Department shall not grant the application of any minor under the age of eighteen years for an operator's license or instruction permit unless such application is signed by the father of the applicant, if the father is living, and has custody of the applicant, otherwise by the mother or guardian having the custody of such minor, or in the event the minor under the age of eighteen years has no father, mother or guardian, then an operator's license or instruction permit shall not be granted to the minor unless his application therefor is signed by his employer.

§ 10. *Designation of Circuit Court Clerk*:

The Circuit Clerk of each county is hereby authorized and designated to act for the Department for the purpose of issuing operators' licenses, and keeping in his office at all times, available to the Department, a record of all licenses issued in his county, and all violations occurring within his county under this Act. It shall be the duty of the Clerk to forward a copy of the application received from a person not residing in the county to which he has applied for license to the Clerk of the county in which applicant resides. It shall be the duty of the Circuit Court Clerk to administer the oath required under this Act to applicant without fee.

§ 11. *Register of Operators*:

(a) The Department shall file every application for an operator's license numerically, and keep a record of licenses which have been suspended or revoked.

(b) In the case of a suspension or revocation of a license by the Department, it shall immediately transmit to the Circuit Court Clerk of the county of the operator's residence notice of such suspension or revocation and such other information as may be necessary.

(c) The Circuit Court Clerk shall file every application for an operator's license and index the same by name and also by number and maintain suitable records of all licenses issued and all applications for licenses denied, also a record of all licenses which have been suspended or revoked, also a record of all licenses reported to him as issued in a foreign county, as well as a record of the suspensions and revocations thereof.

§ 12. *Licenses issued to operators*:

(a) If the Circuit Court Clerk shall determine that the applicant, having fully complied with the sections of this Act governing application and examination, is entitled to an operator's license, he shall issue same.

(b) Every such license shall bear thereon the county in which issued and the distinguishing number assigned to the license, and shall contain the name, age, resident address and a brief description of the licensee for the purpose of identification, also a space for the signature of the licensee.

§ 13. *Duplicate license certificates*:

In the event that an operator's license issued under the provisions of this Act shall be lost or destroyed, the person to whom same was issued may obtain a duplicate or substitute thereof by applying in person and upon furnishing proof satisfactory to the county issuing the original license that such license has been lost or destroyed, and upon payment of twenty-five cents (25c) to be retained by the clerk.

§ 14. *License to be signed and carried*:

The licensee shall have such license in his immediate possession at all times when driving a motor vehicle and shall display the same upon demand to the Circuit Court Clerk or examiner, to a justice of the peace, a peace officer or a field deputy or inspector of the Department. It shall be a defense to any charge under this subsection that the person so charged produce in court an operator's license, issued to such person before such arrest and valid at the time of his arrest.

§ 15. *Expiration of licenses*:

Every operator's license shall expire at midnight July 31 each year, Every such license shall be renewable on or before its expiration upon application and payment of the required fee of one dollar ($1.00) and shall be renewed without any examination unless the Department has reason to believe that the licensee is no longer qualified to receive a license.

§ 16. *Court to report convictions and suspension of license*:

Any Circuit Court having jurisdiction over offenses committed under this Act or any other Act of this state regulating the operation of motor vehicles on highways may suspend or revoke the operator's license of the person so convicted, and shall report the conviction, suspension, or revocation to the Circuit Court Clerk who shall forward such information to the Department, provided that inferior courts may recommend to the Circuit Court a suspension or revocation of any license issued under this section.

§ 17. *Mandatory suspension or revocation of licenses issued by the Department*:

(a) It shall be the duty of the Circuit Court having jurisdiction to forthwith revoke the license of any person convicted of any of the following crimes:

(1) Manslaughter resulting from the operation of a motor vehicle.

(2) Driving a vehicle while under the influence of intoxicating liquor, or narcotic drug.

(3) Perjury or the making of a false affidavit to the Department under this Act or any other law of this State requiring the registration of motor vehicles or regulating their operation on highways.

(4) Any crime punishable as a felony under the motor vehicle laws of this State or any other felony in the commission of which a motor vehicle is used.

(5) Conviction or forfeiture of bail upon three charges of reckless driving all within the preceding twelve months.

(6) A conviction of a driver of a motor vehicle, involved in an accident resulting in the death or injury of another person upon a charge of failing to stop and disclose his identity at the scene of the accident.

(b) The Department upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of such person is suspended or revoked, shall immediately extend the period of such first suspension or revocation for an additional like period.

§ 18. *Discretionary suspension or revocation by Court or Department*:

(a) The Court or Department may immediately suspend the license of any person with or without hearing and with or without receiving a record of conviction of such person of crime whenever the Court or Department has reason to believe:

(1) That such person has committed any offenses for the conviction of which mandatory revocation of license is provided in Section 17.

(2) That such person has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury or serious property damage.

(3) That such person is incompetent to drive a motor vehicle or is afflicted with mental or physical infirmities or disabilities rendering it unsafe for such person to drive upon the highways.

(4) That such person is an habitual reckless or negli-

gent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws of this state.

(b) The Department is hereby authorized to suspend or revoke the right of any non-resident to operate a motor vehicle in this State for any cause for which the license of a resident operator may be suspended or revoked, and any non-resident who operates a motor vehicle upon a highway when his right to operate has been suspended or revoked by the Department shall be guilty of a misdemeanor and subject to punishment as provided in Section 28.

(c) The Department is hereby authorized to suspend or revoke the license of any resident of this State upon receiving notice of the conviction of such person in another state of an offense therein which if committed in this state, would be grounds for the suspension or revocation of the license of an operator. The Department is further authorized upon receiving a record of the conviction in this State of a non-resident driver of a motor vehicle of any offense under the motor vehicle laws of this State to forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

(d) The Department shall not suspend a license for a period of more than one year and upon suspending or revoking any license shall require that such license so suspended or revoked shall be surrendered to and retained by the Department except that at the end of a period of suspension such license so surrendered shall be returned to the licensee.

§ 19. *Right of appeal*:

The hearing granted the licensee under Section 18 of this Act shall be held under the same legal procedure and rights of parties as in criminal trials in the county court.

Any person denied a license, or whose license has been suspended and/or revoked by the Court or the Department shall be granted an appeal from the order of the Court or Department denying such license, or from the order or judgment of the Court or Department on hearing, to the circuit court of the county in which the offense was committed, which appeal and trial in the circuit court shall be governed by the same procedure as on appeals from inferior courts to the circuit court, and the chief agent or representative of the Department in said county shall be the agent of the Department for the service of all summons of other court process on all hearings, appeals or trials under the provisions of this Act. The licensee shall be granted a speedy trial in the circuit court after due notice by summons, but by agreement of parties the trial may be held at any time after filing of appeal.

The licensee may further pray and shall be granted an appeal from any final order or judgment entered or rendered against him in said circuit court, and the appeal and trial shall be the same as other cases of the circuit court on appeal, except the case may be heard before the circuit judge during vacation by agreement of parties.

The circuit court is hereby vested with jurisdiction under the provisions of this Act. The licensee shall be entitled to a change of venue in the circuit court as provided by law.

§ 20. *New license after revocation*:

Any person whose license is revoked under this Act shall not be entitled to apply or receive any new license until the expiration of one year from the date such former license was revoked.

§ 21. *When parent, guardian, or employer liable for negligence of minor*:

Any negligence of a minor under the age of eighteen years licensed upon application signed as provided in Section 9, when driving any motor vehicle upon a highway, shall be imputed to the person who shall have signed the application of such minor for said license, which person shall be jointly and severally liable, with such minor, for any damages by such negligence.

§ 22. *Owner liable for negligence of minor:*

Every owner of motor vehicle causing or knowingly permitting a minor under the age of eighteen years to drive such vehicle upon a highway, and any person who gives or furnishes a motor vehicle to such minor shall be jointly and severally liable with such minor for any damages caused by the negligence of such minor in driving such vehicle.

§ 23. *Violation of license provisions:*

It shall be unlawful for any person to commit any of the following acts:

(a) To display or cause to permit to be displayed or to have in possession any operator's license knowing the same to be fictitious or to have been canceled, revoked, suspended or altered;

(b) To lend to, or knowingly permit the use of by one not entitled thereto, any operator's license issued to the person so lending or permitting the use thereof;

(c) To display or to represent as one's own any operator's license not issued to the person so displaying the same;

(d) To fail to surrender to the Department upon demand, any operator's license which has been suspended, canceled or revoked as provided by law;

(e) To use a false or fictitious name or give a false or fictitious address in any application for an operator's license or any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any such application.

§ 24. *Making false affidavit perjury:*

Any person who shall make any false affidavit, or shall knowingly swear or affirm falsely, to any matter or thing required by the terms of this Act to be sworn to or affirmed, shall be guilty of perjury and upon conviction shall be punished by fine or imprisonment as other persons committing perjury are punishable.

§ 25. *Unlawful to permit violations of Act:*

No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven by any person who has no legal right to do so or in violation of any of the provisions of this Act.

§ 26. *Unlawful to drive while license suspended or revoked:*

Any person whose operator's license has been suspended or revoked, as provided in this Act, and who shall drive any motor vehicle upon the highways of this state while such license is suspended or revoked, shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in Section 28 of this Act.

§ 27. *Penalty for misdemeanor:*

(a) It shall be a misdemeanor for any person to violate any of the provisions of this Act unless such violation is by this Act or other law of this state declared to be a felony.

(b) Unless another penalty is in this Act or by the laws of this state provided, every person convicted of a misdemeanor for the violation of any provision of this Act shall be punished by a fine of not less than twenty-five dollars ($25.00) nor more than fiive hundred dollars ($500.00) or by imprisonment for not more than six months, or by both such fine and imprisonment.

§ 28. *Penalty for driving while license suspended or revoked:*

Any person convicted of a violation of Section 26 of this Act shall be punished by imprisonment in the county jail for a period of not less than seven (7) days nor more than six (6) months and there may be imposed in addition thereto a fine of not less than twenty-five ($25.00) nor more than five hundred dollars ($500.00).

§ 29. *Evidence of negligence in accident:*

In addition to the penalties herein provided, if any driver involved in any accident resulting in any damage whatever either to person or to property shall be ineligible to procure operator's license herein provided for or being eligible therefor shall have failed to procure said operator's license, or having procured same yet at the time of such accident same shall have been suspended or revoked, he shall be deemed *prima facie* negligent in causing or contributing to cause such accident.

§ 30. *Short Title*:

This Act may be cited as the "Uniform Operator's License Act".

§ 31. *Constitutionality*:

If any part or parts of this Act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act.

§ 32. *Repeal*:

The existing operator's license, found in Chapter eighteen (18) of the 1934 Extraordinary Session of the General Assembly now codified in Baldwin's Supplement to Carroll's Kentucky Statutes, Sections 2739m-1 to 2739m-32, inclusive, is hereby repealed, and all acts or parts of acts inconsistent with the provisions of this Act are hereby repealed.

§ 33. *Emergency*:

Whereas, the present State revenue does not meet the immediate needs of the maintenance of the State government, its agencies and subdivisions, an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor.

Be it provided, however, that the effective date of this Act shall be one o'clock A. M., of the date three calendar weeks from the day this measure is approved by the Governor.

Ordered that said bills be printed and referred to the Committee on Revenue and Taxation No. 1.

Dr. Shields moved that the House do now adjourn to meet again on tomorrow at eleven o'clock A. M.

Said motion was agreed to.

And then the House adjourned.

WEDNESDAY, APRIL 22, 1936.

The House was opened with prayer by the Reverend Father O'Dwyer of the Roman Catholic Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett

W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
John Kirtley, Spkr.

Dr. Shields moved that the Rules of this House be suspended for the purpose of taking up for consideration the Orders of the Day.

Said motion was agreed to.

Thereupon the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 46. An Act concerning revenue and taxation and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* Whenever used in this Act unless the context requires otherwise:

(a) "Manufacturer" shall mean and include any person engaged in the manufacture or production of cigarettes;

(b) "Wholesaler" shall mean and include any person who sells at wholesale or who distributes cigarettes for the purpose of being sold at retail. The term includes any manufacturer, distributor, jobber, broker, agent, or other person, whether or not enumerated in this section, who so sells or so distributes.

(c) "Retailer" shall mean and include any person who sells to a consumer or to any person for any purpose other than resale;

(d) "Department" shall mean and include the Department of Revenue of the Commonwealth of Kentucky;

(e) "Person" shall mean and include any individual, firm, partnership, association, corporation, or other group or combination acting as a unit.

§ 2. There is hereby imposed on the sale of cigarettes made of tobacco or any substitute therefor one cent (1c) on each ten cents (10c) or fractional part thereof of the retail selling price.

§ 3. The taxes imposed by this Act shall be paid by affixing stamps in the manner and at the time herein set forth. The stamps shall be affixed to each individual package of cigarettes by the manufacturer of such cigarettes when and as sold, if such cigarettes are manufactured within the State of Kentucky, otherwise they shall be so stamped by wholesalers within seventy-two hours after such cigarettes are received by them. If received by retailers, they shall be stamped within twenty-four (24) hours after their receipt by him.

All cigarettes must be stamped before being sold in this State.

§ 4. The stamps required herein to be affixed to the box or container in which, or from which, cigarettes are normally sold to retailers shall be so affixed that the boxes or containers cannot be opened without breaking the stamp; and it shall be so affixed as to require the continued application of steam or water to remove without opening the said box or container.

§ 5. The stamps provided for in this Act shall be purchased from the Department and from no one else. Said Department is impowered to prescribe rules and regulations governing the sale and distribution of said stamps.

§ 6. Where any cigarettes for sale of which a tax is herein imposed are manufactured for shipment and sale without the State, the said manufacturer shall affix thereon, in the same manner as the other stamps herein provided for are required to be affixed, an export stamp to be furnished without cost by said Department. In the case of any cigarettes upon which any export stamps herein provided for be sold and shipped to a regular dealer in such article in another state for sale outside the state, the seller in this state shall be entitled to a refund of the actual amount of tax paid, upon condition that he shall make an affidavit that the goods were so sold and shipped, and shall furnish from purchaser written acknowledgment that he has received such goods and as part of said acknowledgment the amount of stamps thereon. The refund may be in the form of stamps of sufficient value to cover said refund or if the seller shall so desire the Department shall certify to the Auditor of Public Accounts the refund to which said seller is entitled, and the Auditor shall draw his order in said amount upon the State Treasury, which shall pay the said refund to said distributor.

§ 7. Whoever removes, washes, restores, alters, or otherwise prepares any of the stamps herein mentioned with intent to use or cause the same to be used after it has already been used; or whoever counterfeits such stamps or knowingly or willfully sells, offers for sale, or gives away any such counterfeit, washed, restored, or altered stamp to any person; or knowingly uses the same or has in his possession any washed, restored, or altered stamps which have been removed from the article to which they have been previously affixed, or any counterfeit stamp; or whoever, for the purpose of indicating the payment of tax hereunder, uses any stamp that has heretofore been used for the purpose of denoting the tax provided in this Act; or prepares, buys, sells or offers for sale, or knowingly has for sale, in his possession any counterfeit stamp shall be guilty of a misdemeanor and upon his conviction shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment for one to five years, or both.

§ 8. Any person required by this Act to affix the stamps as provided by this Act who shall fail properly to affix the stamps within the time prescribed by law, shall be required to pay as part of the tax imposed herein, one hundred per cent (100%) of the amount of the tax due to be assessed and collected by the Department as other taxes are collected, and such tax and penalty thereon shall bear interest at the rate of six per cent (6%) per annum.

Any article required by this Act to bear a stamp found in the place of business of any person engaged in selling cigarettes shall be *prima facie* evidence that such articles are intended for sale.

§ 9. The administration of this Act is vested in the Department which may prescribe rules and regulations needed for the enforcement of this Act. The Department, or any representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment, and/or inventories of any manufacturer, wholesaler, or retailer, pertaining to sales made taxable by this Act; to examine witnesses under oath with the purpose of verifying returns made by those required by this Act to make returns, or for other purposes involving the enforcement of this Act; and to examine the books, records, papers, files, equipment, and/or inventories of manufacturers, wholesalers, dealers, or carriers for the purpose of verifying the accuracy of the reports under this Act or dealing with this Act. If this Act is being violated the Department shall have power to institute legal proceedings for the purpose of regulating and enforcing the collection therefor, with interest and penalties thereon. The Department may for the purpose of collecting the amount of the tax due with interest thereon have an attachment against the property of the one from whom the tax, penalty, and interest is due or garnishment of his creditors without execution of bond upon the filing of an affidavit alleging the nature of the claim, that it is just, the sum which the Department believes the Commonwealth should recover from the defendant, and any grounds upon which the Civil Code authorizes the issuance of an attachment in civil causes.

Any information obtained by the Department or any agent or representative thereof as a result of the reports or investigations herein required to be made shall be confidential as respects the individual business. Any person divulging the information, except on order of a court of competent jurisdiction or to an officer of the Commonwealth entitled to receive the same in his official capacity, shall be fined a sum not exceeding five hundred dollars ($500), provided, that this provision shall not prevent publishing statistics of tax receipts and sales if such publication reveals information as concerning the individual business of any manufacturer, wholesaler, or retailer.

§ 10. The Department is hereby authorized and directed to prescribe the forms of the stamps herein provided for. It shall have such stamps prepared for sale in such manner as it may deem proper. Such stamps shall be sold at their face value. The methods of breaking packages and containers and the methods of affixing the stamps shall be prescribed by the Department in such way as to enforce the provisions of this measure.

§ 11. It is the intent or purpose of this Act to impose the tax herein levied one time upon the sale of cigarettes. Any cigarettes on account of which a tax has been paid shall not occasion payment of asecond or other tax regardless of the number of times the cigarettes may be sold within this State.

§ 12. Every manufacturer, wholesaler, and retailer, is hereby required to preserve written records of sales made taxable by this Act, to keep invoices of commodities received by him, and to maintain other records and submit such additional reports as the Department may require for the enforcement of this Act.

§ 13. No suit shall be maintained in any court to enjoin or delay the collection of the tax herein imposed on any grounds whatever. The aggrieved party shall pay the tax under protest as and when due, and may at any time within two years from the date of such payment sue the Commonwealth of Kentucky through its agent, the Auditor of Public Accounts, in an action in any court, state or federal, otherwise having jurisdiction of the parties, and subject matter for recovery of the tax so paid with interest thereon from the date of payment. If it is finally determined that said tax or any part thereof was wrongfully collected for any reason, it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasury of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected together with interest thereon, and the Treasurer shall pay the same at once out of the General Expenditure Fund of the State in preference to other warrants or claims against the Commonwealth. Separate suits need not be filed for each separate payment made, but recovery may be had in one suit for all sums paid which are not barred by the aforesaid limitation of two years.

§ 14. When any cigarettes, the sale of which is made taxable by this Act, are sold or distributed under such circumstances that the Constitution and laws of the United States preclude imposition of the tax, then such tax shall not apply.

§ 15. Any manufacturer, wholesaler, or retailer who shall fail or refuse to make any return required by the Department of him or shall refuse to permit the Department, its authorized agents or representatives to examine the books, records, papers, files, and/or equipment of such person pertaining to the business made taxable by this Act, or makes an incomplete, false, or fraudulent return hereunder or who attempts to do anything hereunder to evade full disclosure of the facts or to avoid the payment in whole or in part of the tax or interest thereon due shall be deemed guilty of a misdemeanor and upon conviction shall be fined not exceeding one thousand dollars ($1,000) and in case the offender is an individual may be imprisoned in the county jail not exceeding six (6) months, or both. Such fines shall be in addition to other fines and penalties hereunder prescribed.

All revenue derived from the operation of this Act shall as collected be covered into the State Treasury and credited to the General Expenditure Fund.

§ 16. The imposition of the taxes herein provided shall not become effective until one (1) o'clock A. M., three calendar weeks from the date this Act is approved by the Governor. Within twenty-four (24) hours thereafter, and before any sale is consummated wholesalers and retailers shall affix the stamps required by this Act on all cigarettes on hand and acquired before the effective date of the imposition of the taxes herein provided.

§ 17. Whereas, the present state revenue does not meet the immediate needs for the maintenance and support of the state government, an emergency is declared to exist; except as otherwise herein provided, and this Act shall become a law effective upon its passage and approval by the Governor.

Mr. Joe Robinson moved the Previous Question.

Thereupon the Speaker announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Garnett moved that the time limit for debate on said bill be extended to thirty minutes each for the proponents and opponents of the bill.

The Speaker ruled that said motion was not in order, the Previous Question having been ordered by the House.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only, and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
G. M. Ballard
Douglas Bolling
Wallace Brown
V. O. Chandler
Roy Conway
Herbert Cook
Sam Dever
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
Ferd A. Gnau
Ben Grogan
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
J. L. McDermott
W. F. McGary
Duke Mayfield
W. E. Mull
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
John Kirtley, Spkr.
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Those who voted in the negative were—

W. T. Baker
B. F. Bedford
Reuben J. Boling
Ollie J. Bowen
Dr. R. A. Byers
Jas. C. Carter
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Harry Davis
Stanley S. Dickson
George W. Dunlap
Howard G. Early
James Garnett, Jr.
G. W. Garrett
Eugene Gough
James T. Hamilton
C. L. Hammons
J. H. Jones
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
G. S. Milam
W. H. Miller
John B. Mollett
Tyler Munford
Russell O'Neill
Hobart Rayburn
Ray O. Shehan
Chester D. Silvers
H. C. Steely
Henry Stewart
R. Van Bever, Jr.
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

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Resolved that the title thereof be as aforesaid.

Mr. Joe Robinson moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Dr. Shields moved that the House do now recess until two-fifteen o'clock P. M.

Said motion was agreed to.

And then the House recessed.

AFTERNOON SESSION

The hour of two-fifteen o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

A message was received from the Senate announcing that they had passed a resolution which originated in the Senate, entitled:

S. Res. 5. Resolution memorializing Congress to remove Federal taxes from certain Kentucky products.

Said resolution is as follows, viz.:

WHEREAS, Kentucky is facing difficulty in providing sufficient revenue for her schools, her unfortunate wards, and her other proper and necessary expenses;

And Whereas, the revenue collected by the Federal Government from two of Kentucky products, whiskey and tobacco alone would, in any one year provide sufficient revenue for all Kentucky's expenses and pay her entire outstanding indebtedness twice over;

And Whereas, no other state has her proper revenue sources so completely exhausted by the Federal Government;

And Whereas, Kentucky's contributions in internal revenue to the Federal Government are much greater than any other state in the union in proportion to her population, and the amount of return federal contributions;

And Whereas, the Federal Government now gives credit on her estate tax to eighty per cent of the amount paid to the state by such taxpayers, which greatly favors states of great wealth and large estates;

And Whereas, this entire federal relationship as now provided is unjust, prejudicial, and discriminatory to Kentucky:

Now, Be it Resolved, That Kentucky through this legislature call upon her senators and representatives of the Federal Congress to seek through legislation, or administration, or in such way as they think most wise and effective to remove this unfair and prejudicial preemption of Kentucky's revenue from her main products and secure for her either credits as in the federal state tax or proportionate returns to the state, or in such way as they deem best.

Be it Further Resolved, That they meet together and discuss ways and means to bring about a more equitable arrangement between the two governments and advise the legislature what steps it should take to open negotiations with the Federal Government to secure this relief.

Resolved, That a copy of this resolution be furnished to each member of the United States Senate and the United States House of Representatives from Kentucky.

And that they had passed a bill which originated in this House, entitled:

H. B. 29. An Act relating to revenue and taxation, providing for an income tax, the collection and administration thereof, and declaring an emergency.

With amendments thereto as proposed and adopted by the Senate.

Said amendments are as follows, viz.:

1. Amend H. B. 29 in Senate, Section 32, subsection 2, page 27 of the printed bill, by inserting in line 17 after the word "determined" and before the word "as" the following language: "in the event separate accounting is impracticable".

2. Amend H. B. 29 in Senate by striking therefrom all of Sections 39, 40 and 41, and inserting in lieu thereof the following:

"Section 39. *Income for first Taxable Year.* The taxes imposed by this Act shall first be collected and paid with respect to the net income received during the calendar year 1936. The income taxable during the first taxable year, in the event the taxpayer's taxable year is a fiscal year, shall be deemed to be that fraction of the income for the entire fiscal year equal to the number of days remaining in the fiscal year equal to the number of days remaining in the fiscal year after January 1, 1936, divided by three hundred and sixty-five (365). Provided, however, that if the taxpayer's records disclose the exact income for that part of the fiscal year falling the calendar year 1936, then the portion of the fiscal year's income taxable hereunder shall be that portion received or accrued during the calendar year 1936.''

''Section 40. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.''

3. Amend H. B. 29 in Senate, page 6, Section 3, subsection (j), line 51 of the printed bill, by striking out the period after the word ''obsolescence'' and adding the following language: ''and including in the case of natural resources allowances for depletion equivalent to those allowed under the Federal Income Tax Law in effect at the date of the passage of this Act''.

4. Amend H. B. 29 by adding immediately following line 80 on page 7 of the printed bill:

''(m) All income received from the Federal Government by ex-service men or their dependents, by reason of war-time service in the United States Army, Navy, Marine or Nursing Service, of the United States Government.''

5. Amend H. B. 29 in Senate, by striking out the words ''two thousand dollars,'' and the figures ''2,000'' in lines 4 and 5 of Section 17 on page 16 of the printed bill and substitute in lieu thereof the words ''twenty-five hundred dollars'' and the figures ''$2,500.00''.

6. Amend H. B. 29 in Senate by striking out the words ''two thousand dollars'' and the figures ''$2,000'' in line 8 of Section 30 on page 25 of the printed bill and substituting in lieu thereof the words ''twenty-five hundred dollars'' and the figures ''$2,500.00''.

7. Amend H. B. 29 in Senate by adding the words ''and income taxes paid to the United States'' after the word ''municipalities'' on line 12, page 5 of the printed bill.

8. Amend H. B. 29 in Senate, as follows: Page 6, line 60, after word ''literary'' add word ''military''.

9. Amend H. B. 29 in Senate as follows: Page 7, line 63, after the word ''organizations'' add ''or unite and organizations of the Kentucky National Guard''.

10. Amend H. B. 29 in Senate, on page 5 and in Section 3(b) by striking out said section and inserting in lieu thereof, ''All interest paid or accrued within the taxable year, except on indebtedness incurred to purchase or continued to carry property, the income from which is exempt from taxation under this act''.

11. Strike lines 48 and 49, paragraph ''f'' on page 4, in their entirety.

12. Amend Section 23, page 20, line 56, by striking out the word ''and'' and substituting the word ''or'' therefor.

13. Amend H. B. 29 by striking therefrom all of Section 40.

14. Amend H. B. 29 in Senate, by striking from Section 13 on page 12 in line 12 the following: ''three hundred dollars ($300)'' and inserting in lieu thereof the following: ''four hundred dollars ($400)''.

And that they had refused to recede from amendments Nos. 12, 15 and 18 as proposed and adopted by the Senate to a bill which originated in the House, entitled:

H. B. 16. An Act to repeal, amend and re-enact Chapter 111 of the Acts of the General Assembly of 1924, etc.

And respectfully request that a Committee of three on Conference be appointed to act with a like Committee on the part of the Senate to settle the difference between the two Houses.

(For bill and amendments see House Journal of April 21.)

Mr. Myers moved that the Speaker do now appoint a Committee on Conference on the part of the House.

Said motion was agreed to.

Thereupon the Speaker appointed Messrs. Tapp, Joe E. Robinson and Myers as members constituting the Committee on Conference.

Ordered that the Chief Clerk deliver said bill and amendments to the Committee on Conference.

Dr. Shields moved that the session of today be extended indefinitely.

Said motion was agreed to.

Dr. Shields moved that the Rules of this House be suspended for the purpose of introducing bills.

Said motion was agreed to.

Thereupon the following bill was introduced, viz.:

By Mr. Scheben:

H. B. 54. An Act relating to revenue and taxation and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* (a) "Places of amusement and/or entertainment" shall mean and include all theatres, ball parks and stadia, lecture halls, dance halls, night clubs, skating rinks, public bathing places, and all places of other sorts, whether like the above mentioned or not, at which businesses providing amusements and/or entertainments for which a charge is made, are operated, but shall not mean nor include race tracks subject to the supervision of the Kentucky Racing Commission.

(b) The term "sale" shall mean and include the transfer or exchange for valuable consideration of services of all classes and kinds.

(c) The word "person" shall mean and include individuals, firms, joint stock companies, syndicates and corporations.

(d) "Professional entertainers" shall mean and include any person or persons who receive pay in money or money's worth for their performances.

(e) "Proprietor" shall mean and include any person who owns, operates, or manages a place of amusement and/or entertainment.

(f) "Department" shall mean and include the Department of Revenue of Kentucky.

§ 2. A tax is hereby imposed on the sale of admission to places of amusement and/or entertainment at the rate of one cent (1c) in each ten cents (10c) or fractional part thereof of the admission charged. If a cover charge is made the tax shall be one cent (1c) in each ten cents (10c) or fractional part thereof of the said cover charge.

In the case of places of amusement and/or entertainment at which food is served and professional entertainers are employed and no separate charge is made for such amusement and/or entertainment twenty-five per cent (25%) of the total charge made shall be deemed to be the charge for amusement and/or entertainment, and this amount shall be subject to the tax at the rate of one cent (1c) in each ten cents (10c) or fractional part thereof. The proprietor of each place of amusement and/or entertainment subject to the provisions of this paragraph shall make return on or before the tenth (10th) day of each month on such forms as the Department may prescribe setting out the gross receipts from his place of business, the amount which by this paragraph is deemed to be the charge for amusement and/or entertainment, and such additional information as the Department may require, and shall accompany such return with a certified or cashier's check for the amount of tax due hereunder.

Nothing in this Act shall be construed so as to impose a tax upon admissions to athletic contests, plays, and other forms of amusement and/or entertainment, the proceeds of which admissions are to be used exclusively for charitable, religious, or educational purposes within this State.

§ 3. (a) The administration of this Act is vested in the Department of Revenue which may prescribe forms and promulgate rules and regulations needed for the enforcement of the Act. The Department or any representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment and/or inventory of any person or persons pertaining to services made taxable by this Act, to examine witnesses under oath for the purpose of verifying returns made by persons or for other purposes involving enforcement of this Act, and to examine the books, records, papers, files, equipment and/or inventory of other persons for the purpose of determining whether the Act is being violated.

(b) The Department shall have power to institute legal proceedings for the purpose of ascertaining the amount of tax due and of enforcing the collection thereof with penalties thereon and for the purpose of enjoining the operation of the business of the proprietor until said tax is paid.

(c) The Department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalty and interest thereon as set out herein, have an attachment against the property of the proprietor or garnishment of his debtors, without the execution of bond, upon filing an affidavit showing the nature of the claim, that it is just, the sum which the Department believes the State should recover from the proprietor, and any of the grounds upon which an attachment is authorized by the civil code of practice in civil causes.

(d) Any information obtained by the Department or any agent or representative thereof, as a result of the reports, investigations or verifications herein authorized and required to be made, shall be confidential as respecting the business of any person, and any person divulging such information, except on the order of a court of competent jurisdiction, or to an officer of the Commonwealth entitled to receive the same in his official capacity, shall be fined not exceeding five hundred dollars ($500.00), provided, however, that this provision shall not prevent the Department from publishing statistics of tax receipts and volumes of sales in such a manner as not to reveal information concerning the business of any individual.

(e) The Department is hereby authorized and directed to prescribe the forms of adhesive stamps and officially stamped admission tickets. The Department shall have adhesive stamps and officially stamped admission tickets carrying the design prescribed, prepared for sale to persons in such a manner as it may deem proper. The adhesive stamps and officially stamped admission tickets shall be sold at their face value.

(f) The Department shall keep a suitable record of the sale of all officially stamped admission tickets which shall show the dates of sale thereof and the names of the purchasers.

§ 4. (a) The officially stamped admission tickets shall serve as stamps for the purpose of evidencing payment of the tax herein imposed on admissions to places of amusement and/or entertainment, and shall indicate on the face the charge for admission. These tickets shall be sold by the Department to persons operating places of amusement and/or entertainment; and the Department shall prescribe suitable regulations respecting the manner in which said tickets shall be used in order to conform to the provisions of this Act.

(b) Except for cases in which season tickets are used or in which it is impractical for the Department to furnish appropriate tickets, every person operating a place of amusement and/or entertainment, subject to the provisions of this Act, shall use only such tickets as are distributed by the Department, provided that in the case of season tickets and in other cases in which it is impractical for the Department to require the use of such tickets, the person operating the place of amusement and/or entertainment must place adhesive stamps evidencing payment of the tax on the admission ticket. These stamps shall be firmly attached to the tickets in such a manner as will require the continued application of steam or water for the removal thereof.

(c) Except as otherwise provided by the regulations promulgated by the Department for the enforcement of this Act, as each individual is admitted to places of amusement and/or entertainment, his ticket shall be collected and immediately torn in two parts, approximately through the middle, and one-half given to the patron, the other half being retained. If adhesive stomps are used, as herein provided, the ticket shall be torn in such way as to break the stamp in two parts.

§ 5. Whoever removes, washes, restores, alters, or otherwise prepares an adhesive stamp or officially stamped admission ticket with intent to use or cause to be used, after it had already been once used, or whoever knowingly or willfully buys, sells, offers for sale, or gives away such washed, restored, or altered stamp or officially stamped admission ticket, to any person, or knowingly uses the same, or has in his possession any washed, restored, or altered stamps which have been removed from admission tickets, to which they have previously been affixed, or whoever, for the purpose of indicating the payment of any tax herein imposed, uses again any stamp or officially stamped admission ticket that has theretofore been used, for the purpose of denoting the payment of the tax provided in this Act, or whoever prepares, buys, sells or offers for sale, or knowingly has in his possession any counterfeit stamps, is guilty of a felony and, upon conviction, shall be punished by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment for not more than five (5) years, or by both such fine and imprisonment. Provided, however, that if such violator be other than a natural person, then the principal officer and/or the officer or officers responsible for such violation may be so imprisoned.

§ 6. Any person required by this Act to affix the stamps or use officially stamped admission tickets as provided in this Act, who shall fail properly to affix the stamps or officially stamped admission tickets, within the time prescribed by law, or who shall fail to pay the tax imposed in Section 2, subsection (b) of this Act, shall be required to pay as a part of the tax imposed hereunder a penalty of one hundred per cent (100%) of the amount of tax due to be assessed and collected by the Department as other taxes herein imposed are collected. Any admission tickets in the place of business of any person required by the provisions of this Act to stamp the same shall be *prima facie* evidence that such articles are intended for sale or use in this State.

§ 7. No person shall sell, give, or lend any stamps, nor shall any person purchase, accept, receive, or borrow any stamps from any person; it being the intent hereof, in order to prevent fraud and insure collection of the taxes due, to limit all sales and transfers of such stamps to the Department or its authorized representative.

§ 8. It is the intent and purpose of this Act to impose the tax levied herein once only upon the sales of the same services made taxable hereunder.

§ 9. No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this

Act. The aggrieved taxpayer shall pay under protest the tax as and when required and may at any time within two (2) years from the date of such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in an action at law in any court, state or federal, otherwise having jurisdiction of the parties and subject matter, for the recovery of the tax paid with legal interest thereon from the date of payment. If it is finally determined that said tax or any part thereof was wrongfully collected, for any reason, it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected together with legal interest thereon. The Treasurer shall pay the same at once out of the general expnditure fund of the state in preference to other warrants or claims against the Commonwealth. A separate suit need not be filed for each individual payment made by any taxpayer, but a recovery may be had in one suit for as many payments as may have been made.

§ 10. If services, the sale of which is made taxable by this Act, are distributed under such circumstances that the Constitution and laws of the United States or of Kentucky preclude the possibilities of imposing the tax, then such tax shall not apply.

§ 11. Any person who shall violate any of the provisions of this Act not hereby made a felony shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars ($500.00) for each offense and said person's license, if any be required by law, shall be subject to revocation at the discretion of the Court.

§ 12. All revenue derived from the operation of this Act as collected and recorded shall be deposited through the Department in the State Treasury and credited to the General Expenditure Fund.

§ 13. The provisions of this Act are severable. If any provision, section, or paragraph thereof, or if the application of any provision, section or paragraph to any class of sales or uses affected by the operation of the Act, should be held unconstitutional or invalid, such decision regarding the provision, section, paragraph, or application shall not affect or impair the remainder of the Act, it being hereby declared the legislative intent to tax separately the sale of each class of service contemplated by any of its provisions.

§ 14. *Emergency.* Whereas the present State revenue does not meet the immediate needs for the maintenance of the State government, its agencies and subdivisions, an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor.

Be it provided, however, that pending preparation of stamps and completion of other administrative plans, the effective date of this Act shall be one o'clock A. M., of the date three (3) calendar weeks after this measure is approved by the Governor.

Ordered that said bill be printed and referred to the Committee on Revenue and Taxation No. 1.

Mr. Brown of the Commitee on Revenue and Taxation No 1, to which the same had been previously referred, reported bills of the following titles, viz.:

H. B. 51. An Act relating to revenue and taxation of gross receipts of utilities and declaring an emergency.

H. B. 53. An Act relating to the licensing of motor vehicle operators and providing for the definition of terms, etc.

With the expression of opinion that said bills ought to pass.

Said bills were each read at length the first time and ordered to be placed on the Calendar.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 49. An Act to repeal Section 7 of Chapter 74 of the Acts of 1926, being an Act relating to revenue and taxation, providing for corporation license tax for certain corporations, providing the manner of making reports and determining the amount of tax and the manner of paying same, prescribing penalties and repealing existing statutes; said section now being Section 4189-7 of Carroll's Kentucky Statutes, 1930 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 7 of Chapter 74 of the Acts of 1926, being an Act relating to revenue and taxation, providing for corporation license tax for certain corporations, providing the manner of making reports and determining the amount of tax and the manner of paying same, prescribing penalties and repealing existing statutes, said section now being Section 4189-7 of Carroll's Kentucky Statutes, 1930 Edition, be and the same is hereby repealed.

Mr. John Robinson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Said motion was agreed to.

Mr. Davis moved that the consideration of said bill be postponed and that said bill retain its place in the Orders of the Day, with the privilege to call at any time.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 4. An Act entitled an act providing a tax on Greyhound racing and providing how said tax shall be levied and collected and providing the means and method of levying and collecting same and providing penalties for the violation thereof; to provide for a Greyhound Racing Commission; to prescribe its powers and duties; to fix its compensation; to provide for holding elections; to provide for licensing such racing and apportioning the moneys derived therefrom; to provide for the selling of combination or French pools within the enclosure of licensed race tracks; to provide penalties for the violation of this act and repealing any laws in conflict therewith, and declaring an emergency.

With Committee amendments thereto.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Any corporation formed for the purpose of racing or breeding of Greyhounds and conducting races and contests of speed shall have the power and right, subject to the provisions of this Act, to hold one or more race meetings in each year and to hold, maintain and conduct races at such meetings. At such meetings the corporation or the owners of Greyhounds engaged in such races or others who are not participants in the racing may contribute purses, prizes, premiums or stakes to be contested for; but no person or persons other than the owner or owners of Greyhounds contesting in a race shall have any pecuniary interest in a prize, purse, premium or stake contested for in such race, or be entitled to, or receive any portion thereof, after such race shall have been finished; and the whole of such purse, prize or premium or stake shall be allotted in accordance with the terms and conditions of such race.

Such meetings shall not be held except during the period extending from the first day of May to the first day of November, inclusive in each year. Said races shall be held between the hours of 7 P. M. and 12 o'clock Midnight and no races are authorized or shall be permitted except during the period aforesaid.

§ 2. A Greyhound Racing Commission is hereby established to consist of three persons to be appointed by the Governor. The members of said commission shall hold their offices for a term of four years and the first commission shall be appointed within twenty days after this Act shall go into effect. The Governor will appoint a Secretary for said commission who shall act for a period of two years whose duty it shall be to keep a full and faithful record of its proceedings and preserve at its general office, all books, maps, documents and papers intrusted to its care and who shall perform such other duties as the commission may prescribe. He shall be paid a salary to be fixed by the commission at a rate not exceeding $1,200.00 per annum, which shall be paid by the several racing corporations or associations conducting racing in said State. The commission shall bi-annually make a full report to the General Assembly of its proceedings for the two year period ending with the first day of December preceding the meeting of the General Assembly and shall embody therein such suggestions and recommendations as it shall deem proper.

POWERS OF COMMISSION

§ 3. Said commission shall have the power to prescribe the rules, regulations and conditions under which racing shall be conducted in this State and no such races shall be conducted in this state except by a corporation or association duly licensed by such commission as herein provided. Any corporation or association desiring to conduct such racing may annually apply to the Greyhound Racing Commission for a license so to do. If, in the judgment of the commission, a proper case for the issuance of such license is shown it may grant the same for a term of one year and such license shall contain a condition that all races or race meetings conducted thereunder shall be subject to the rules, regulations and conditions from time to time prescribed by the commission and shall be revokable by the commission for any violation thereof, or whenever the conduct of such licensee shall be deemed by the commission not conducive to the best interest of legitimate racing. But if a license is refused to any applicant or revoked by said commission it shall publicly state its reasons for so doing and said reason shall be written in full in the minute book of said commission, which shall at all times be subject to inspection upon application of any interested person desiring so to do. Said finding of said commission revoking said permit or license shall be subject to review by a court of competent jurisdiction; provided that a refusal of the commission to grant to any racing association or corporation a license to operate or to assign to any racing association the requested number of days in each year for racing at the track of such association or the decision of such commission refusing any license of any association or corporation applying for permits to operate in either event shall not be subject to review by the courts of this state.

§ 4. Race meetings, at which racing shall be permitted for any stake, purse or reward except as allowed by this Act, is hereby declared to be a public nuisance and any person acting or aiding therein shall be deemed guilty of misdemeanor and punished by a fine of not less than $500.00 nor more than $1,000.00 for each day of such meeting or racing and in addition thereto, in a suit brought for the purpose by the Greyhound Racing Commission in the Circuit Court of the county where it may be proposed to conduct such unauthorized racing, an injunction may be obtained against the operation of said race meeting.

§ 5. At the time of making application for a permit, the applicant shall deposit with the Racing Commission a cash bond, certified check or bank draft payable to the order of the Racing Commission in an amount equal to $100.00 for each day excluding Sundays, petitioned for in said application. At the close of the last day of the Greyhound Racing Commission for which a permit has been issued as provided for in Section 6 of this Act, the Racing Commission shall refund to such permit holder the sum of $100.00 for each racing day the permit holder paid the Racing Commission the tax due for said day as provided for and at the rate stipulated by this Act; provided, however, if such permit holder has not paid to the Racing Commission the expenses and compensation of representatives assigned to his or its track as provided for in this Act, the commission is authorized and directed to withhold such refund until the same has been paid. In the event any full day's racing is declared off by the judges on account of inclement weather, muddy track, or any essential part of said racing plant has been rendered unusable by fire, wind, riot or explosion or other cause, the Racing Commission shall refund to the permit holders the sum of $100.00 of their deposit for each day.

§ 6. Upon the filing of an application accompanied by a permit fee or a cash bond, certified check or bank draft as herein provided by any person, association, trust or corporation not in default of payment of any obligation due to the Commonwealth of Kentucky under the provisions of this Act the Racing Commission may issue a permit to such applicant to hold or conduct a Greyhound Racing Commission as authorized in this Act. Such permit shall specify the person, association, trust or corporation to whom the same is issued, the dates upon which such Greyhound Racing meetings are to be held or conducted, the hours of such dates between which such Greyhound Racing shall be permitted, the location of the place, track or enclosure where such Greyhound Racing Meeting is to be held or conducted and shall in writing evidence the receipt of the payment of the permit fee and the deposit of the cash bond, certified check or bank draft by applicant, and if such permit is issued to such applicant it shall contain a condition that all Greyhound Racing Meetings conducted therein shall be subject to the rules and regulations of the commission as then existing or as may be from time to time prescribed and promulgated by said Racing Commission. The commission may refuse to award dates or to issue a permit to any applicant if a permit has been previously issued to said applicant and revoked under the authority of this Act or for any cause by it deemed sufficient. Such permit may be suspended, diminished or revoked by the commission for any violation of this Act or of any rule of the commission made under authority of this Act, provided five days written notice is mailed by registered mail to the permit holder which notice shall specify the charges, the time and place of hearing thereon at which hearing the permit holder shall be given the opportunity of presenting evidence and being represented by counsel and the Racing Commission shall immediately enter upon its record of proceedings a memorandum of its action in such suspension, diminution or revocation and its reasons therefor. Such permit shall be non-transferable and shall apply only to the place, track or enclosure specified in the permit.

§ 7. Any person, association, trust or corporation holding a permit to conduct a Greyhound Racing Meeting, may provide a place or places in the racing grounds or enclosure at which they or it may conduct and supervise the combination, French pools, or certificate system of wagering by patrons of legal age on the Greyhound races conducted by such permit holder at such meeting. (Such combination, or French pool or certificate method of wagering upon Greyhound races held at or within such race track and at the time of such Greyhound Racing Meeting shall not be held or construed to be unlawful to the Statutes of the Commonwealth of Kentucky, to the contrary notwithstanding.) Any law in conflict therewith is hereby repealed. No other place except that provided and designated by the permit holder or any method of betting or wagering except the combination or French pools or certificate system shall be used or permitted by the permit holder in which the combination or French pools or certificate system of wagering be conducted by the permit holder on any Greyhound races except the races at the race tracks grounds or enclosure for which the person, association, trust or corporation holds a permit. Each permit holder may retain as commission, not to exceed fifteen per cent of the total of all money wagered each day. The permit holder may also retain the odd cents of all redistributions to be made on all compensation or French pools or certificate system, contributions exceeding a sum equal to the next lowest multiple of ten cents. At the close of each racing day, the permit holder shall pay to the Racing Commission as a tax, three per cent of the total of all money wagered each day. In addition to the aforesaid taxes, each person, association, or corporation authorized to conduct race meetings under this Act shall pay to said Racing Commission fifteen per cent of all moneys received each day for admissions by persons attending said races or the sum of ten cents on each and every admission, whichever sum is the greater. Said payment shall be accompanied by a report under oath showing the total of all said contributions and admissions on the races covered by such report and such other information as said commission may require. If any free passes or complimentary admission cards shall be issued to guests by any licensee, the licensee of such track shall pay to the commission the same tax upon such complimentary admission cards as if same were sold at the regular and usual rate; but nothing herein shall be construed to prevent the issuance of tax free passes to officials and accredited newspaper men and actual employees of the licensee or other person engaged actually in working at such race track, provided, however, that the issuance of all such tax free passes shall be under the regulation or orders of the commission and a list of all officers and employees shall be filed with the commission. The tax herein imposed shall be in lieu of all license excise or occupational taxes to the Commonwealth of Kentucky, or any county, town or political subdivision thereof, except that when any racing meeting is held or conducted in any incorporated city or town, such city and town shall have the right to assess and collect an additional tax against any person, firm, association or corporation conducting Greyhound racing within its corporate limits not to exceed $50.00 per racing day.

§ 8. All moneys collected from the three per cent commission as above referred to and all moneys collected from the sale of admission tickets as above referred to, shall be paid by the racing commission to the State Treasurer of the Commonwealth and said moneys when paid to the State Treasurer shall be allocated to and used for the general common school fund.

§ 9. At least eighty-five per cent of all persons connected with any race track authorized under this Act, including gatekeepers, announcers, and ushers shall be qualified electors of this Commonwealth of Kentucky, provided, that this section shall not apply to owners and trainers of racing Greyhounds.

§ 10. After any corporation or association duly licensed by this commission has been operating Greyhound Racing in any county for a period of sixty days if the citizens of said county are dissatisfied with Greyhound Racing in said county, an election or referendum may be ordered by the legal voters of said county in number equal to twenty-five per cent of the votes cast therein at the last preceding election provided said number of voters shall sign a petition to that effect in the office and in the presence of the County Clerk of said county, who shall at the time said petition is signed determine whether said signer or signers are qualified voters of said county and after the requisite number of voters have signed said petition, the County Clerk shall certify these facts to the County Judge, whose duty it shall be at the next regular term thereof, after receiving said petitions to make an order in his order book directing an election to be held in such county, to be effected thereby on some day named in said petition, no earlier than sixty days after said application is lodged with the judge of said court, which order shall direct the sheriff or court officer of said county who may be appointed to hold said election, to open a poll at each and all of the voting places in such county, city, town, district or precinct on said date for the purpose of taking the sense of the legal voters of such county who are qualified to vote at elections for county officers upon the proposition whether or not Greyhound Racing shall be conducted in said county.

§ 11. It shall be the duty of the County Clerk to give to the sheriff of the county or such officer as may be appointed to hold said election a certified copy of the order of the county court as it appears on the order book within five days after said order is made; and it shall be the duty of said sheriff or other officer to have said order published in some weekly or daily paper published in the county for at least two weeks before the election and also to advertise the same by printed or written handbills posted at some conspicuous place in each precinct in the county for the same length of time when the election is held for the entire county; the sheriff or other officer shall have the advertisements and notices herein provided for, posted as herein required within seven days after he receives the order of the county court. All elections provided for in this Act shall be held by such officers as would be qualified to hold elections for county officers and they shall be selected in the same way, and all elections provided for herein shall be held in accordance with the provisions of the general election laws of the state, except that they shall not be held on the same day with any regular, political nor within thirty days preceding or following any such regular, political election.

§ 12. If it shall be found that a majority of the legal votes cast at any election herein provided for were given for or against Greyhound Racing, it shall be the duty of the canvassing board to certify that fact which certificate shall be delivered to the clerk of the County Court and by him safely kept until the next regular term of the County Court at which term the judge thereof shall have the same spread on the order book and said entry of certificate in the order book or a certified copy thereof shall be prima facie evidence in any and all proceedings under this Act.

§ 13. The result of said election when so held under the provisions of this Act shall determine the question for a period of five years and no election shall be held again in said county upon the subject for a period of five years thereafter.

§ 14. If any section of this Act shall be declared unconstitutional it shall only affect such section and not affect any other section of said Act.

§ 15. Whereas, the Commonwealth of Kentucky is in dire need of revenue to sustain and maintain its various institutions of government and the credit of the Commonwealth of Kentucky is being impaired by lack of sufficient revenue to carry on the various functions of government, and for the purpose of securing immediately the revenue provided under this Act, an emergency is hereby declared, and this Act shall become a law from and after its passage and approval by the Governor.

Said Committee amendments are as follows, viz.:

1. Amend H. B. 4, on page 7, Section 8, line 6, by striking out in line 6, the words ''common school'' before the word ''fund'' and inserting in lieu thereof the word ''revenue''.

2. Amend H. B. 4, by striking out in line 2, page 8, after the word ''county'' the following: ''for a period of sixty days'' and insert after the word ''county'', a comma (,).

3. Amend H. B. 4 by striking out all of Section 15 of the printed bill.

Amendments Nos. 1 and 2 were then agreed to.

Mr. Fitzpatrick moved the Previous Question on Amendment No. 3 and the bill.

Thereupon the Speaker announced ''Shall the Main Question be now put?''

Which was decided in the negative.

Said amendment No. 3 was then agreed to.

The yeas and nays being taken thereon were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
G. M. Ballard
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
V. O. Chandler
George S. Clay
Herbert Cook
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
G. W. Garrett
Eugene Gough
C. L. Hammons
Price Holbrook
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
R. T. Kirkman

J. F. Ladd
M. T. McCarthy
T. B. McConnell
J. L. McDermott
G. S. Milam
Rodes K. Myers
J. C. Nickell
Mel Petry
J. C. Ramey
Harry C. Records
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Dr. B. F. Shields
P. L. Sidebottom
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward

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Those who voted in the negative were—

H. T. Baker
B. F. Bedford
Reuben J. Boling
Dr. R. A. Byers
Roscoe Claxon
J. A. Coleman
Harry Davis
Sam Dever
Stanley S. Dickson
Howard G. Early
Garland Embry
James Garnett, Jr.
Ferd A. Gnau
James T. Hamilton
W. L. Hampton, Jr.
Thomas W. Hines
J. H. Jones
O. C. Jones
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Russell O'Neill
A. W. Pfeiffer
W. T. Rollo
Carl Schneider
Ray O. Shehan
Chester D. Silvers
Bruce Sloan
J. J. Thomas
L. R. Wells
W. G. Williams
Charles Wylie

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Mr. Fitzpatrick moved the Previous Question on said bill.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, and the same being engrossed, said bill was read the third time by its title only, and rejected.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Douglas Bolling
Wallace Brown
V. O. Chandler
Floyd Clark
George S. Clay
Herbert Cook
T. P. Fitzpatrick
Eugene Gough
Price Holbrook
J. H. Jones
J. F. Ladd
G. S. Milam
John B. Mollett
Mel Petry
J. C. Ramey
Harry C. Records
Joe E. Robinson
John C. Robinson
Dr. H. S. Swope
Henry Ward

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Those who voted in the negative were—

Henry H. Allen
H. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Ollie J. Bowen
Dr. R. A. Byers
Jas. C. Carter
Roscoe Claxon
J. A. Coleman
Harry Davis
Sam Dever
Stanley S. Dickson
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Ben Grogan
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
O. C. Jones
R. T. Kirkman
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. H. Miller
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
A. W. Pfeiffer
Hobart Rayburn
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider

Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
J. J. Thomas
S. J. Wagner
Joseph L. Wall
L. R. Wells
W. G. Williams
Charles Wylie
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Mr. Fitzpatrick moved that the vote by which said bill was rejected be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The Speaker announced that Mr. Henry Ward had tendered his resignation as a member of the Committee on Revenue and Taxation No. 1 and that said resignation had been accepted. The Speaker also announced that Mr. Myers had been appointed to the personnel of the Committee on Revenue and Taxation No. 1 to fill the vacancy caused by the resignation of Mr. Ward.

A message was received from the Senate announcing that they had passed a bill which originated in this House entitled:

H. B. 7. An Act requiring auctioneers doing business in the State of Kentucky, either residents or non-residents of the said State, to obtain a license before doing any of the said business pertaining to auctioneers, fixing the amount of said license and providing for the manner in which same are to be issued, defining auctioneers, and prescribing penalties for the violation of the provisions hereof, and declaring an emergency.

With amendments thereto as proposed and adopted by the Senate.

Said amendments are as follows, viz.:

1. Amend H. B. 7 in the Senate as follows: On page 3, Section 6, in line 4, after the word "courts", add the following: "or other officers making sales as required by law".

And the same bill, on same page, in same section, in line 8, by adding after the word "court" the following: "or as required by law".

2. Amend H. B. 7 by striking therefrom the following words in the printed bill: Beginning in line 7, after the figures "($100.00)", beginning with the word "it", through lines 7, 8, 9, 10, 11, 12 and 13, inserting in lieu thereof: "This act to become effective on July 1, 1936."

3. Amend H. B. 7 by inserting after the period in line 8, Section 6, on page 3 of the printed bill, the following: "nor shall any auctioneer who does not sell for specific compensation be required to obtain a license".

And an amendment to the title of said bill as follows:

Strike from the title of H. B. 7, the following words: "and declaring an emergency".

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 48. An Act concerning revenue and taxation and declaring an emergency.

Said bill is as follows, viz.:

§ 1. *Definitions.*

(a) The word "person" as used in this Act includes individuals, co-partnerships, business trusts, joint stock companies, and corporations.

(b) The word "dealer" in this Act includes all persons who are engaged in the sale of motor vehicles at retail.

(c) The term "Department" as used in this Act shall mean the Department of Revenue of the Commonwealth of Kentucky.

(d) "Retail price" shall be determined by the price for which said vehicle with standard equipment sells in the county in which license is applied for (or, if not sold in said county, then in the county nearest said county in which said motor vehicle is sold) by regularly authorized dealers in said motor vehicles if a new car, and if a used car, by the price or value given in the Automotive Reference Manual used by the Department of Revenue.

(e) The word "motor vehicle" as used in this Act shall include all vehicles which are propelled otherwise than by muscular power and which are used for transportation of persons or property over and upon the public highways of the Commonwealth, excepting, however, road rollers and such vehicles as travel exclusively on rails.

§ 2. There is hereby imposed on the use in this Commonwealth of every motor vehicle, at the time it is first registered with the County Clerk for the purpose of procuring licenses and having license tags issued therefor, a tax equal to three per cent on its retail price.

§ 3. There is expressly exempted from the tax imposed by any of the provisions of this Act:

(a) Cars sold to the United States, to this State, to any political division of this State, to any municipality, or to any charitable, religious, or educational institution of the Commonwealth of Kentucky.

(b) Used cars registered or licensed in Kentucky during the same or immediately preceding license period.

(c) Cars owned by a person *bona fide* domiciled in another state and used and licensed in such state by such owner during the same or immediately preceding license period.

§ 4. The tax hereby imposed shall be collected by the

County Clerk at the time he collects the registration fee for registering and licensing the said motor vehicle the first time such motor vehicle is offered for registration in the Commonwealth of Kentucky, and shall be accounted for by him to the Department of Revenue as such registration and license fees are by law accounted for, and the said County Clerk shall be paid by the Commonwealth of Kentucky for his services in collecting such tax, an amount equal to two per cent (2%) of the tax so collected and accounted for.

§ 5. The County Clerk shall not register or issue any license tags to the owner of any motor vehicle affected by the provisions of this Act, which motor vehicle is then being offered for registration the first time, unless and until, in addition to the registration fees and license fees imposed by law, the owner shall pay the tax imposed herein.

§ 6. The Department is hereby charged with the enforcement of this Act and may promulgate such rules and regulations and prescribe such forms as are necessary or desirable for the enforcement of its provisions. The Department, or any representative appointed by it in writing, is hereby authorized to examine the books, records, papers, inventories, and files of any dealer pertaining to cars, the use of which is made taxable by this Act; to examine witnesses under oath for the purpose of verifying the accuracy of returns made; and to examine the books, records, papers, and files of dealers for the purpose of verifying reports made under the provisions of this Act or of determining whether or not the Act is being violated.

The Department shall have the power to institute legal proceedings for the purpose of ascertaining the amount of tax due under the provisions of this Act and to enforce the collection thereof with the penalties and interest thereon.

§ 7. No suit shall be maintained in any court to restrain or delay the collection of the tax herein imposed on any ground whatever, but the aggrieved person shall pay under protest the tax as and when due and may at any time within two (2) years after the date of such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in an action in any court, State or Federal, otherwise having jurisdiction of the subject matter for the recovery of the tax so paid with legal interest thereon from the date of payment. If it can be finally determined that said tax or any part thereof was wrongfully collected for any reason, it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected, together with interest thereon; and the Treasurer shall pay the same at once out of the General Expenditure Fund of the State in preference to other warrants or claims against the Commonwealth. Separate suits need not be filed for each separate payment, but recovery may be had in one suit for all suits heretofore paid or not barred by the limitation of two (2) years herein imposed.

§ 8. All revenues derived from the operation of this Act, shall as collected, be covered into the State Treasury and credited to the General Expenditure Fund.

§ 9. Any person violating any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000.00), and in case the offender is an individual, may be imprisoned in the county jail not exceeding six (6) months, or both so fined and imprisoned.

§ 10. Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State government and its agencies, an emergency is declared to exist and this Act shall become a law and be effective on its passage and approval by the Governor.

Mr. Wagner offered the following amendment to said bill, viz.:

Amend H. B. 48 by adding thereto at the end of Section 3, on page 2 of the printed bill, the following:

"(d) Vehicles used exclusively in a business on which a franchise tax is paid by the owner. And the owner shall be required to exhibit a franchise tax receipt for the same or immediately preceding license period."

Mr. Myers moved that said bill and amendment thereto be laid on the Clerk's desk.

Said motion was agreed to.

Mr. Davis moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

THURSDAY, APRIL 23, 1936.

The House was opened with prayer by the Reverend Father O'Dwyer of the Roman Catholic Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley

T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

Mr. Carter moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Upon a call of the Counties and Legislative Districts, the following bills were introduced, ordered printed and referred as follows, viz.:

By Mr. Silvers:

H. B. 55. An Act relating to revenue and taxation and providing for an annual ad valorem tax for State purposes upon real estate situated in this Commonwealth, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That an annual ad valorem tax for State purposes of thirty cents (30c) upon each one hundred dollars ($100.00) of value on all real estate situated within this Commonwealth is hereby directed to be assessed for taxation, and said tax to be collected as provided by law.

Whereas, there is insufficient revenue under the present law to support and maintain the necessary functions of the State Government, and

Whereas, the indebtedness of the State is increasing tremendously, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

To Committee on Revenue and Taxation No. 1.

By Mr. McGary:

H. B. 56. An Act to repeal, amend and re-enact Chapter one hundred fifty-one (151) of the Acts of the General Assembly of the Commonwealth of Kentucky of 1932 now codified as Section 4238 of Baldwin's 1933 Supplement to Carroll's Kentucky Statutes, "being an Act relating to revenue and taxation so as to increase the state tax on the recording of certain instruments and marriage licenses".

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Chapter one hundred fifty-one (151) of the Acts of the General Assembly of the Commonwealth of Kentucky of 1932 now codified as Section 4238 of Baldwin's 1933 Supplement to Carroll's Kentucky Statutes, "being an Act relating to revenue and taxation so as to increase the state tax on the recording of certain instruments and marriage licenses" be and the same is hereby repealed, amended and re-enacted so that said section as amended and re-enacted shall read:

(a) There is imposed a tax of four dollars ($4.00) on each verdict of a petit jury in civil cases in circuit court;

(b) There is imposed a tax of three dollars and fifty cents ($3.50) on each marriage license;

(c) There is imposed upon the filing and registering of a plat and certificate of survey, and issuing and recording patent thereon one charge which shall be paid before the survey is filed, but not to apply to a survey heretofore filed in the register's office, a tax of two dollars and fifty cents ($2.50) for each survey consisting of ten (10) acres or less, and a tax of five dollars ($5.00) for each survey in excess of ten (10) acres;

(d). There is imposed a tax of two dollars ($2.00) on each appeal to the Court of Appeals;

(e) There is imposed a tax of one dollar ($1.00) on each deed or power of attorney to convey real or personal estate; on each mortgage or conveyance of personal property; on each lien or conveyance of coal, oil, gas or other mineral right or privilege;

(f) There is imposed a tax of one dollar ($1.00) for issuing a land warrant, for each official certificate with seal of office affixed;

(g) There is imposed a tax of fifty cents (50c) as follows: On each original action or proceeding in the circuit court, commencing with or without original process, and on each original action or proceeding in other courts, when the amount in controversy, exclusive of interest and costs, exceeds fifty dollars ($50.00); and on each appeal to the circuit or quarterly court and on each traverse or forcible entry or detainer and on each proceeding to reverse a judgment;

(h) There is imposed a tax of fifty cents (50c) on the seal of court required by law to keep a seal except for the purpose of issuing the license authorized by the State;

(i) There is imposed a tax of fifty cents (50c) for a copy of a plat; for a copy of a course and distances of any patent or survey; and for a copy of an entry or land warrant;

(j) There is imposed a tax of twenty-five cents (25c) for filing a caveat; for filing a copy of judgment of a court in a case of a caveat, mandamus or other proceeding affecting the land office, or the duties of the register; and for a copy of an assignment;

(k) There is imposed a tax of two cents (2c) for each twenty words of: a copy of a caveat; a copy of any writing not specifically provided for.

Said tax shall be due and payable when said processes, or instruments are filed or issued, or copies thereof furnished.

§ 2. All revenues derived under the provisions of this Act shall be covered into the State Treasury and credited to the General Expenditure Fund.

§ 3. Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State government and its agencies an emergency is declared to exist and this Act shall become a law and be effective on its passage and approval by the Governor.

To Committee on Revenue and Taxation No. 1.

Mr. Fitzpatrick sent the following notice to the Clerk's desk, viz.:

The House of Representatives of the Commonwealth of Kentucky will take notice:

That on tomorrow, Friday the 24th of April, 1936, during motion hour, I, as Representative of the sixty-fifth district of Kenton County, will move the House of Representatives to rescind their action taken upon the clincher motion made on yesterday on H. B. 4.

Mr. Myers moved that the Rules of this House be suspended for the purpose of taking up for immediate consideration a bill entitled:

H. B. 29. (For title see House Journal of yesterday.)

With Senate amendments thereto.

Said motion was agreed to.

Thereupon the House took up for consideration said bill.

(For bill and amendments as proposed and adopted by the Senate, see House Journal of yesterday.)

Said amendments were each and severally concurred in.

Said bill was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early

Garland Embry
Walter R. Fannin
T. P. Fitzpatrick
G. W. Garrett
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Robert E. Lee
M. T. McCarthy
T. B. McConnell
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Dr. B. F. Shields
P. L. Sidebottom
W. R. Tapp
J. J. Thomas
Joseph L. Wall
L. R. Wells
W. G. Williams

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Those who voted in the negative were—

Jas. C. Carter
Chas. P. Farnsley
James Garnett, Jr.
Ferd A. Gnau
John M. Hunnicut
G. S. Milam
John B. Mollett
W. E. Mull
Tyler Munford
Hobart Rayburn
W. T. Rollo
Carl Schneider
Ray O. Shehan
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
S. J. Wagner
Henry Ward
Charles Wylie

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Mr. McCarthy moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

Mr. Gnau moved that the Speaker be directed to name a Committee of two members of this House to take necessary steps in having a suitable floor covering placed in the House Chamber.

Said motion was agreed to.

Thereupon the Speaker appointed Messrs. Myers and Milam as members constituting said Committee.

Dr. Shields moved that the Rules of this House be suspended for the purpose of taking up for consideration the Orders of the Day.

Said motion was agreed to.

Thereupon the House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 51. An Act relating to revenue and taxation of gross receipts of utilities and declaring an emergency.

H. B. 53. An Act relating to the licensing of motor vehicle operators and providing for the definition of terms, etc.

Ordered that said bills be read the second time.

The constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 48. An Act concerning revenue and taxation and declaring an emergency.

With an amendment thereto.

(For bill and amendment see House Journal of yesterday.)

Said amendment was agreed to.

Mr. Wagner moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

The yeas and nays being required thereon, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
W. T. Baker
Reuben J. Boling
Douglas Bolling
Wallace Brown
V. O. Chandler
Floyd Clark
Roscoe Claxon
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
G. W. Garrett
Ferd A. Gnau
Eugene Gough
C. L. Hammons
W. L. Hampton, Jr.
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
J. H. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
Elmer McGlothen
W. H. Miller
W. E. Mull
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall

—56

Those who voted in the negative were—

H. T. Baker
G. M. Ballard
Dr. R. A. Byers
Jas. C. Carter
George S. Clay
J. A. Coleman
Howard G. Early
Garland Embry
James Garnett, Jr.
Ben Grogan
Jas. T. Hamilton
Thomas W. Hines
O. C. Jones
W. F. McGary
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
John B. Mollett
Tyler Munford
J. C. Nickell
Russell O'Neill
P. L. Sidebottom
Chester D. Silvers
H. C. Steely
Henry Stewart
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

—31

Mr. Hunnicut moved that said bill be made a Special Order of the Day for Friday, at two o'clock P. M.

Said motion was withdrawn by unanimous consent.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.
W. T. Baker
Douglas Bolling
Ollie J. Bowen
Wallace Brown
V. O. Chandler
Floyd Clark
Roscoe Claxon
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
W. L. Hampton, Jr.

Ira W. Hulette
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
W. F. McGary
Elmer McGlothen
C. S. Matherly
W. E. Mull
Rodes K. Myers
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
W. G. Williams
John Kirtley, Spkr.

—52

Those who voted in the negative were—

Henry H. Allen
H. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Dr. R. A. Byers
Jas. C. Carter
George S. Clay
J. A. Coleman
Howard G. Early
Garland Embry
James Garnett, Jr.
Jas. T. Hamilton
C. L. Hammons
Thomas W. Hines
Clyde S. Howard
John M. Hunnicut
J. H. Jones
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
John Marshall
D. T. Matlack
Duke Mayfield
John B. Mollett
Tyler Munford
Russell O'Neill
Hobart Rayburn
Ray O. Shehan
P. L. Sidebottom
Chester D. Silvers
H. C. Steely
Henry Stewart
R. Van Bever, Jr.
Henry Ward
L. R. Wells
Charles Wylie

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Resolved that the title thereof be as aforesaid.

Mr. Wagner moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Dr. Shields moved that the House do now recess until one-thirty o'clock P. M.

Said motion was disagreed to.

Mr. Hammons moved that the House do now adjourn.

Said motion was disagreed to.

The yeas and nays being taken thereon, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
G. M. Ballard
Reuben J. Boling
Dr. R. A. Byers
Jas. C. Carter
Floyd Clark
George S. Clay
Herbert Cook
Sam Dever
Garland Embry
Walter R. Fannin
James Garnett, Jr.
Ben Grogan
Jas. T. Hamilton
C. L. Hammons
Thomas W. Hines
Leslie Larrimore
M. T. McCarthy
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
D. T. Matlack
G. S. Milam
John B. Mollett
Tyler Munford
Russell O'Neill
H. C. Steely
Henry Stewart

—31

Those who voted in the negative were—

W. T. Baker
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
V. O. Chandler
Roscoe Claxon
J. A. Coleman
Roy Conway
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Chas. P. Farnsley
T. P. Fitzpatrick
G. W. Garrett
Ferd A. Gnau
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
T. B. McConnell
John Marshall
C. S. Matherly
Duke Mayfield
W. H. Miller
W. E. Mull
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
L. K. Rice
Joe E. Robinson
John C. Robinson
W. T. Rollo

A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Dr. H. S. Swope
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
—56

Mr. Myers moved that the House do now recess until two o'clock P. M.

Said motion was agreed to.

And then the House recessed.

AFTERNOON SESSION

The hour of two o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

Dr. Shields moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. McGlothen moved that the privilege of the floor be extended to Messrs. John Pedrie and John Chandler.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 41. An Act relating to revenue and taxation of gasoline and repealing certain sections and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Chapter one hundred and fifty (150) of the Acts of the General Assembly of 1932, now codified in Baldwin's Supplement to Carroll's Kentucky Statutes, Sections 4224b-1 to 4224b-12, inclusive, is hereby repealed.

§ 2. *Definitions.* Whenever used in this Act unless the context requires otherwise:

(a) "Person" shall mean and include any individual or individuals, association, firm, co-partnership, corporation, receiver, trustee, conservator, or other officer appointed by any State or Federal court.

(b) "Gasoline" as used in this Act shall include all liquid fuels, including liquids ordinarily, practically and commercially usable in internal combustion engines for the generation of power, and all distillates of, and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments and all other products, so usable except kerosene, cleaner solvent, fuel oil, diesel fuel and crude oil sold and used for purposes other than for use in internal combustion engines.

(c) "Dealer" is hereby defined as any person who imports or causes to be imported in the State of Kentucky gasoline as herein defined for use, distribution, or sale and delivery in the State of Kentucky and after the same shall reach the State of Kentucky; also any person who produces, refines, manufactures or compounds gasoline in the State of Kentucky for use, distribution or sale and delivery in this State; also any person who receives gasoline by tank car, barge or pipe line delivery from any point within this State upon which gasoline the excise tax levied by this Act has not been paid; also any person importing or causing to be imported into this State, gasoline in the fuel tank or any auxiliary tank of his motor vehicle in a quantity in excess of thirty gallons.

(d) "Department" shall mean the Department of Revenue of the Commonwealth of Kentucky.

(e) Gasoline shall be deemed as "received" when so designated by the term "received" in this Act when it shall have been caused to be imported into the State of Kentucky by any person for use, distribution, or delivery and sale and when it shall have been placed in tanks or other containers for use or subject to withdrawal for use, distribution or sale and delivery. Gasoline produced, refined, manufactured or compounded at any refinery in the State of Kentucky by any person shall be deemed to be "received" as the word "received" is used in this Act by such person when the same shall have been loaded into tank cars for delivery within the State of Kentucky or placed in any tank from which sales or deliveries are made at the refinery where the same is produced, refined, manufactured or compounded. Gasoline imported by any person into the State of Kentucky and received through delivery by boat at a marine terminal for storage, or delivered by pipe line at a pipe line terminal for storage, shall be deemed to have been "received" when the same shall have been loaded into tank cars for delivery within the State of Kentucky or placed in any tank from which sales or deliveries are made at such respective marine or pipe line terminals. Provided that dealers may sell gasoline to licensed bonded dealers in the State of Kentucky in transport truck load, carload or cargo lots withdrawing such gasoline from refinery, marine or pipe line terminal storage tanks, without paying the tax on such gasoline. In such instances the licensed bonded dealers purchasing such gasoline shall be deemed as having "received" such gasoline, and shall assume responsibility to the State for the payment of the tax thereon and shall report and pay the tax on such gasoline, purchased and received.

(f) "Refinery" shall mean any place where gasoline is refined, manufactured, compounded or otherwise prepared for use.

(g) "Accountable losses" of gasoline shall be construed to mean that "received" gasoline which, through wrecking of transportation conveyance, explosion, and/or fire, shall have been lost or destroyed; report of such loss made to the Department in a manner and form to be prescribed by the Department and supported by positive and conclusive evidence in the judgment of the Department, of such alleged loss, and confirmed in writing to the reporting dealer by the Department after any investigation deemed necessary by the Department to establish the *bona fide* claim of such loss.

§ 3. *Rate of tax on gasoline.* An excise tax of five cents (5c) per gallon is hereby imposed on all gasoline received in this Commonwealth as the word ''received'' is hereinbefore defined. No other excise or license tax shall be levied or assessed on the receipt of gasoline by the State or any political subdivision of the State. The tax hereby provided for shall be paid by the dealer receiving such gasoline to the State Treasurer in the manner and within the time hereinafter specified. Nothing herein contained shall be construed as authorizing or requiring the collection of such tax upon any gasoline after the same shall have been already once taxed under the provisions of this Act.

§ 4. *Allocation of tax from gasoline.* All taxes collected under the provisions of Section 2 of this Act shall be covered into the State Treasury and shall be used only to defray the expense of the administration of this Act and for the purpose of the construction, reconstruction, maintenance and repair of roads, highways and bridges.

§ 5. *Records required.* Every dealer receiving gasoline in the State of Kentucky shall keep and preserve for a period of two years an accurate record of all such receipts as well as of all production, refining, manufacture, compounding, use, sale, distribution, and delivery of gasoline together with invoices, bills of lading and other pertinent records and papers as may be required by the Department. Every person purchasing gasoline from a dealer for the purpose of resale shall maintain and keep for a period of one year a record of all such gasoline so purchased and sold or used, the amount of tax paid to the dealers as part of the purchase price together with delivery tickets, invoices, bills of lading and such other records as the Department shall require.

§ 6. *Reports required of refiners and importers.* Any person who or which produces, refines, manufactures or compounds gasoline in the State of Kentucky shall on or before the 10th day of each month file a report with the Department on forms prescribed for the purpose and covering the next preceding calendar month of the number of gallons of gasoline produced, refined, manufactured or compounded, the number of gasoline withdrawn from refinery storage and shipped to points outside of the State, the number of gallons withdrawn from refinery storage and shipped to points within the State of Kentucky upon which tax has not been paid, and giving in detail the following data regarding each separate shipment: Date of shipment, number of gallons in each shipment, name of owner and license number of truck, if shipped by transport truck, initial and number of tank car if shipped by rail, name and owner of barge if shipped by water, name and address of person to whom shipped, point of shipment, point of destination and name of carrier to whom delivered for transportation to destination. Any person who or which imports and stores gasoline in any marine or pipe line terminal storage in the State of Kentucky shall on or before the 10th day of each month file a report with the Department on forms prescribed for the purpose of covering the next preceding calendar month of the total number of gallons of gasoline unexported and stored, the total number of gallons withdrawn from storage and received, the number of gallons withdrawn from storage and shipped to points outside of the State and the number of gallons of gasoline withdrawn from storage and shipped to points within the State of Kentucky upon which tax has not been paid, and giving in detail the following data regarding each separate shipment: Date of shipment, number of gallons in each shipment, name of owners and license number of truck, if shipped by transport truck, initial and number or tank car if shipped by rail, name and owner of barge if shipped by water, name and address of person to whom shipped, point of shipment, point of destination and name of carrier to whom delivered for transportation to destination.

§ 7. *Reports of transportation.* Every railroad or other transportation company and every other person, firm, association, partnership or corporation transporting gasoline as defined in Section 1 of this Act by whatsoever manner from without the State to points within this State, or between points within the State shall report to the Department, on forms prescribed by the Department, showing the name and address of each person, firm or corporation to whom deliveries of gasoline have been made, the name and address of the original consignee, if deliveries are made to any other than the original consignee, the name and address of the consignor, the point of origin, the point of delivery, the date of delivery, the number and initials of each tank car, if shipped by rail, the quantity of each shipment and delivery in gallons, the manner of shipment and delivery, and such other information as the Department may require relative to the transportation and delivery of such gasoline. Such reports are to include intra-city switching movements of gasoline in tank cars or otherwise. Such reports shall be made under oath and shall be filed on or before the last day of every month covering all such deliveries made within the State during the preceding calendar month.

§ 8. *Report of sales by counties.* Every dealer shall on or before the last day of the month file a report with the Department showing the total number of gallons sold, distributed or used in each county of the state during the next preceding calendar month.

§ 9. *Reports required on gasoline received.* Every dealer or the treasurer or other proper officer or agent of every dealer shall on or before the last day of each month tansmit to the Department a statement under oath or affirmation on such forms as the Department may prescribe of the total number of gallons of gasoline received as the term "received" is hereinbefore defined in the State of Kentucky during the next preceding calendar month and the statement shall include the following information:

a. An itemized statement of the number of gallons of all gasoline received during the next preceding calendar month by such dealer which has been produced, refined, manufactured or compounded by such dealer in the State of Kentucky.

b. An itemized statement of the number of gallons of all gasoline received by such dealer in the State of Kentucky from any source whatsoever during the next preceding calendar month as shown by shippers' invoices thereof, other than the gasoline falling within the provisions of "a" above, together with a statement showing the date of receipt of such gasoline, the name of the person from whom purchased, the date of receipt of each shipment of gasoline, the point of origin and the point of destination, the quantity of each of said purchases or shipment, the name of the carrier, the initials and number of each tank car, date of receipt and the number of gallons contained in each car if shipped by rail or the name and owner of the boat, ship, barge or vessel if shipped by water.

c. An itemized statement of the number of gallons of received gasoline, if any, which such dealer has during the preceding calendar month:

(1) Sold to the United States Government or any of its agencies.

(2) Sold for delivery in Kentucky in transport truck, tank car or cargo lots to licensed bonded dealers. Statement shall give a record of all such transport truck, tank car or

cargo sales of gasoline, giving the date of shipment, the number of gallons contained in each shipment, the name of owner and license number of truck, if shipped by transport truck, the initials and number of the tank car if shipped by rail, the name and owner of the boat, barge or vessel and the number of gallons contained therein, if shipped by water, and shall set forth the name of the person to whom sold, point of shipment and point of delivery.

(3) Lost through accountable losses which have been reported to and approved in writing by the Department as provided in Section 1-g of this Act.

(4) Exported or sold for export from the State of Kentucky to any other state or to any foreign country.

d. Such other information as may be required by the Department.

§ 10. *Receipt and tax on inventory.* In addition to the data required in Section 9 the report rendered by any dealer for the first calendar month from and after the date when this Act shall have become effective shall contain a statement of the number of gallons of gasoline on hand, untaxed and received (within the meaning of the term "received" as defined in Section 1-e of this Act), by such dealers as of the date when this Act shall have become effective. Such gasoline shall be deemed to have been received by such dealer in six equal quantities in the first six calendar months following the effective date of this Act, one-sixth of the total quantity in each month and each one-sixth shall be included in computing the tax payable by said dealer for each of said six months.

§ 11. *Computation and payment of tax.*

a. From the total number of gallons of gasoline received by the dealer within the State of Kentucky during the next preceding calendar month, the following deductions shall be made:

(1) The total number of gallons of gasoline received

by the dealer within the State of Kentucky and sold or otherwise disposed of during the next preceding calendar month as set forth in Section 9, paragraph (c), items (1), (2), (3), and (4) of this Act.

(2) That number of gallons of gasoline which shall be equal to two and one-fourth (2¼%) per cent of the total number of gallons of gasoline received by the dealer within the State of Kentucky during the next preceding calendar month, less the total number of gallons deducted under subparagraph (1) next preceding; this deduction being allowed to cover evaporation, shrinkage, unaccountable losses, collection costs, bad debts, handling and reporting the tax.

b. The tax at the rate of five cents (5c) per gallon of gasoline shall be computed on the number of gallons remaining after the deductions hereinabove set forth have been made and shall constitute the amount of gasoline tax payable for the next preceding calendar month.

Reports required in Section 8 shall be accompanied by a certified or cashier's check, payable to the State Treasurer of Kentucky for the amount of tax due for such preceding calendar month.

§ 12. *Failure to report and pay tax, penalties provided.* If any dealer neglects or refuses to make said return, or pay the tax at the time hereinbefore provided, the amount thereof, with an addition of a penalty of twenty per cent (20%) thereof, with interest at the rate of six per cent (6%) per annum from the date when due until paid, shall be paid on an account settled by the Department, as other taxes are paid, settled and collected; and, if collected by proceedings in any court, an additional penalty of twenty per cent (20%) shall be collected as is authorized to be collected under Section 4263-4 of the Kentucky Statutes, as amended by House Bill Number One, First Extraordinary Session of 1936.

The said twenty per cent (20%) penalty thereon and interest due shall be paid into the State Treasury as part of the tax, and the additional twenty per cent (20%) penalty collected by suit shall be distributed as provided in Section 4263-4 of the Kentucky Statutes, as amended by House Bill Number One, First Extraordinary Session of 1936.

§ 13. *Penalties for violation.* By virtue of the allowance provided herein to dealers for collecting the tax and remitting the same to the Department, every dealer is a trust officer of the State, and failure to remit gasoline tax to the State as provided herein constitutes embezzlement of State funds, and upon conviction under this section any individual, or partner, or officer, or agent of any association, partnership or corporation shall be guilty of a misdemeanor and shall be fined not exceeding one thousand dollars ($1,000) or imprisoned in the county jail not exceeding six months, or both so fined and imprisoned, and upon conviction on a second offense under this section, shall be guilty of a felony and shall be imprisoned for not less than one year or more than five years in the State prison. Provided that in case such violator be other than natural person then the principal officer and/or the officer or officers responsible for such violation may be punished by such imprisonment.

§ 14. *Powers of the Department of Revenue.* The administration of this Act is vested in the Department of Revenue, which may prescribe forms and promulgate rules and regulations needed for the enforcement of this Act.

The Department, through a representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment and/or inventory of any person made liable for any tax under the provisions of this Act; to examine witnesses under oath for purposes appropriate for enforcement of this Act; and to examine the books, records, papers, files, equipment and/or inventory of manufacturers, wholesalers, retailers, or carriers for the purpose of determining whether the Act is being violated.

The Department shall have the power to institute legal proceedings by the Attorney General of Kentucky, or any attorney duly authorized by him, for the purpose of ascertaining the amount of tax due and/or enforcing the collection thereof with penalties and interest thereon, and for the purpose of enjoining the operation of the business of the delinquent.

The Department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalty and interest thereon, as set out herein, have an attachment against the property of the person liable for tax or garnishment of his creditors without the execution of bond on the filing of an affidavit showing the nature of the claim, that it is just, the sum which the Department believes the Commonwealth should recover, and any of the grounds provided by the Civil Code of Practice for the issuance of an attachment in civil causes.

§ 15. *Information privileged.* Any information obtained by the Department or any agent or representative thereof as a result of a report, investigation, or verification herein authorized to be made, shall be confidential and any person divulging any such information except upon order of a court of competent jurisdiction or to an officer of the Commonwealth entitled to receive the same in his official capacity shall be fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500.00).

§ 16. *Restraining suits.* No suit shall be maintained in any court to restrain or delay the collection of the tax herein imposed on any grounds whatever but the aggrieved taxpayer shall pay under protest the tax as and when due and may at any time within two years after such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in any action in any court, State or Federal, otherwise having jurisdiction of the subject matter for the recovery of the tax so paid with legal interest thereon from the date of payment. If it can be finally determined that said tax or any part thereof was wrongfully collected for any reason it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected, together with interest thereon; and the Treasurer shall pay the same at once out of the Road Fund of the State in preference to other warrants or claims against the Commonwealth.

Separate suits need not be filed for each separate payment by any taxpayer but recovery may be had in one for all suits heretofore paid or not barred by the limitation of two years herein imposed.

§ 17. *Penalties for failure to make returns, to pay tax, or to permit examination of records.* Any person or dealer who shall fail, neglect or refuse to make the returns and pay the tax herein prescribed, or shall refuse to permit the Department, its assistants, agents or representatives appointed by it in writing, to examine the books, records, papers, files and equipment of such person or dealer pertaining to the business made taxable by this Act, or who makes any incomplete, false or fraudulent return hereunder, or who does, or attempts to do, anything whatever to avoid a full disclosure of the amount of business done or to avoid the payment of the whole or any part of the tax or penalties due, or who shall fail to keep and preserve records of gasoline manufactured, transported, received, used, sold or delivered or make reports as provided in this Act, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000), and in the case the offender is an individual, he may be imprisoned in the county jail not exceeding six months, or both so fined and imprisoned. Provided, that in case such violator be other than a natural person then the principal officer and/or the officer or officers responsible for such violation, may be punished by such imprisonment. Such penalty shall be in addition to the penalty imposed hereinbefore in Section 13 of this Act.

§ 18. *Dealer's license required.* After this Act shall go into effect, it shall be unlawful for any dealer to receive, use, sell or distribute any gasoline or to engage in the sale of gasoline within this State unless such dealer is the holder of an uncanceled license issued by the Department to engage in such business. To procure such license every dealer shall file with the Department an application under oath or affirmation and in such form as the Department may prescribe, setting forth:

a. The name under which the dealer will transact business within the State of Kentucky;

b. The location, with street number, address of its principal office or place of business within this State; and if such dealer has more than one place of business within the State, the locations of each place of business;

c. The name and complete residence address of the owner or the names and addresses of the partners, if such dealer is a partnership, or the names and addresses of the principal officers, if such dealer is a corporation or association; and if such dealer is a corporation organized under the laws of another state, territory or country, it shall also file with such application a certified copy of the certificate or license issued by the Secretary of State of Kentucky showing that such corporation is authorized to transact business in the State of Kentucky. Upon the filing of an application for a license, and concurrently therewith, a bond of the character stipulated and in the amount provided for in Section 19 of this Act shall be filed with the Department. No license shall be issued upon any application unless accompanied by such a bond. In the event that any application for a license certificate to transact business as a dealer in the State of Kentucky shall be filed by any person whose license shall at any time heretofore have been canceled for cause by the Department, or in case said Department shall be of the opinion that such application is not filed in good faith, or that such application is filed by some person as a subterfuge for the real person in interest whose license or registration shall theretofore have been canceled for cause by said Dpartment, then and in any of said events, the Department, after a hearing, of which the applicant, shall have been given five (5) days' notice in writing and in which said applicant shall have the right to appear in person or by counsel and present testimony, shall have and is hereby given the right and authority to refuse to issue to such person a license certificate to transact business as a dealer in the State of Kentucky. The application in proper form having been accepted for filing, and the bond having been accepted and approved, the Department shall issue to such dealer a license in the State of Kentucky, subject to cancellation of such license as provided by law. The license certificate so issued by the Department shall not be assignable, and shall be valid only for the dealer in whose name issued, and shall be displayed conspicuously in the principal place of business of said dealer in the State of Kentucky. The Department shall keep and file all applications and bonds with an alphabetical index thereof, together with a record of all licensed dealers. It shall be the duty of the Department to publish and keep currently up to date a list of licensed dealers and transmit a copy of such list and all revisions thereto to all licensed dealers.

§ 19. *Bond required.* Every dealer shall file with the Department a bond in the minimum amount of $2,000.00, or an amount equal to three times the monthly tax liability, whichever shall be less, and up to a maximum amount sufficient in the opinion of the Department, the financial rating and reputation of the company considered, to insure payment to the State of Kentucky of the amount of tax and penalties and interest for which the dealer may become liable, on a form to be approved by the Department and with a surety thereon approved by the Department and upon which such dealer shall be the principal obligor and the State of Kentucky shall be the obligee, conditioned upon the prompt filing of true reports and the payment by such dealer to the Treasurer of the State of Kentucky of any and all gasoline excise taxes which are now or which hereafter may be levied or imposed by the State of Kentucky together with any and all penalties and/or interest thereon, and generally upon faithful compliance with the provisions of this Act. In the event that liability upon the bond thus filed by the dealer with the Department shall be discharged or reduced, whether by judgment rendered, payment made or otherwise, or if in the opinion of the Department any surety on the bond theretofore given shall have become unsatisfactory or unacceptable, then the Department may require the dealer to file a new bond with satisfactory sureties in the same amount, failing which the Department shall forthwith cancel the license certificate of said dealer. If such new bond shall be furnished by said dealer as above provided, the Department shall cancel and surrender the bond of said dealer for which such new bond shall be substituted. In the event that upon hearing, of which the dealer shall be given five (5) days' notice in writing, the Department shall decide that the amount of the existing bond is insufficient to insure payment to the State of Kentucky of the amount of the tax and any penalties and interest for which said dealer is or may at any time become liable, then the dealer shall forthwith, upon the written demand of the Department file an additional bond in the same manner and form with a surety thereon approved by the Department to be necessary to secure at all times the payment by such dealer to the State of Kentucky of all taxes, penalties, and interest due under the provisions of this Act, failing which the Department shall forthwith cancel the license certificate of said dealers. Any surety on any bond furnished by any dealer as above provided shall be released and discharged from any and all liability to the State of Kentucky accruing on such bond after the expiration of sixty (60) days from the date upon which such surety shall have lodged with the Department written request to be released and discharged. Provided, however, that such request shall not operate to relieve, release or discharge such surety from any liability already accrued, or which shall accrue, before the expiration of said sixty day period. The Department shall promptly upon receipt of notice of such request notify the dealer who furnished such bond, and, unless, such dealer shall on or before the expiration of such sixty day period file with the Department in the amount and form hereinbefore in this section provided, the Department shall forthwith cancel the license of said dealer. If such new bond shall be furnished by said dealer as above provided, the Department shall cancel and surrender the bond of said dealer for which such new bond shall be substituted.

§ 20. *Cancellation of license.* If any dealer shall at any time file a false monthly report of the data or information required by this act, or shall fail, refuse or neglect to file the monthly report required by this Act, or to pay the full amount of the tax as required by this Act, the Department may forthwith cancel the license of said dealer and notify such dealer in writing of such cancellation by registered mail to the last known address of such dealer appearing on the files of the Department. The Department is hereby given the power to cancel any license hitherto or hereafter issued to any dealer, such cancellation to become effective sixty (60) days from the date of receipt of the written request of such dealer for cancellation thereof or said Department may cancel the license of any dealer upon investigation and sixty (60) days' notice mailed to the last known address of such dealer if it shall ascertain and find that the person to whom such license has been issued is no longer engaged in the receipt, use or sale of gasoline as a dealer, and has not been so engaged for the period of six (6) months prior to such cancellation. But no such license shall be canceled upon the request of any dealer until and unless the dealer shall, prior to the date of such cancellation, have paid to the State of Kentucky all excise taxes payable under the laws of the State of Kentucky together with any and all penalties and fines accruing by reason of any failure on the part of said dealer to make accurate reports as required by this Act and/or pay such taxes and/or penalties. In the event that the license of any dealer shall be canceled by the Department as hereinbefore in this section provided, and in the further event that said dealer shall have paid to the State of Kentucky upon the receipt, sale or use of gasoline, together with any and all penalties accruing by reason of any failure on the part of said dealer to make accurate reports or to pay said tax and/or penalties, then the Department shall cancel and surrender the bond heretofore filed by said dealer.

§ 21. *Penalty for operation without license.* Any person who shall engage in the business of receiving, using, selling, and/or distributing gasoline in the State of Kentucky as a dealer without being the holder of an uncanceled license, to engage in such business, or who shall, without such license, receive, use, sell and/or distribute any gasoline upon which the tax herein imposed shall not have been reported and paid, shall pay a penalty equal to twenty per cent (20%) of the amount of the tax, and, in addition thereto, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00) or by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year or both so fined and imprisoned in the discretion of the jury. Each day or part thereof during which any person shall engage in business as a dealer without being the holder of an uncanceled license shall constitute a separate offense within the meaning of this section. Provided that in case such violator be other than a natural person, then the principal officer and/or the officer or officers responsible for such violation may be punished by such imprisonment.

§ 22. *Exchange of information with other states.* The Department shall, upon request duly received from the officials to whom are intrusted the enforcement of the gasoline tax laws of any other state, forward to such officials any information which it may have in its possession relative to the manufacture, receipt, sale, use, transportation and/or shipment by any person of gasoline. Provided, however, this section shall not apply unless such state extend to this State a similar privilege.

§ 23. *Separability clause.* The provisions of this Act are severable, and if any of its provisions or any penalty provided by this Act shall be held unconstitutional, such provision or the particular penalty held to be invalid shall not affect or impair the remainder of the Act or such part of the penalties as are not held to be invalid and the decisions of the courts shall not affect or impair the remaining provisions of this Act or any of the other penalties anywhere in this Act provided. It is hereby declared as a legislative intent that this Act would have been adopted had any unconstitutional provisions of such invalid penalties not been included herein.

§ 24. *Emergency.* Whereas, the present State revenue does not meet the immediate needs for maintenance of the State government an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor.

Mr. Milam offered the following amendment to said bill, viz.:

Amend H. B. 41 by striking from line 1, Section 3, page 3 of the printed bill, the following words and figures: "five cents

(5c)'' and inserting in lieu thereof the words and figures ''four cents (4c)''.

Said amendment was disagreed to.

Mr. Matlack offered the following amendment to said bill, viz.:

Amend H. B. 41 by striking out the numeral ''1'' in line 3, Section 7, page 5, and substituting therefor the numeral ''2''.

Said amendment was agreed to.

Mr. Clay offered the following amendment to said bill, viz.:

Amend H. B. 41 by striking from lines 11 and 12 of Section 2, page 2 of the printed bill, the following words: ''sold and used for purposes other than for use in internal combustion engines'' and inserting in lieu thereof a period.

Said amendment was agreed to.

Mr. Brown offered the following amendments, viz.:

Amend H. B. 41, Section 3, line 4, page 3 of the printed bill, by striking out the words ''the receipt of''.

Amend H. B. 41, Section 9, subsection (b), line 23, page 7 of the printed bill, by inserting after the word ''ship'' at the end of the line the words ''truck transport''.

Said amendments were each agreed to.

Mr. Hulette moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the negative.

The yeas and nays being taken thereon were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen
H. T. Baker
G. M. Ballard
B. F. Bedford
Douglas Bolling
Wallace Brown
V. O. Chandler
Roy Conway
Sam Dever
Chas. P. Farnsley
T. P. Fitzpatrick
Ben Grogan
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
Ira W. Hulette
O. C. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
Elmer McGlothen
W. E. Mull
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Chester D. Silvers
W. R. Tapp
S. J. Wagner
Joseph L. Wall
Charles Wylie

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Those who voted in the negative were—

Reuben J. Boling
Ollie J. Bowen
Dr. R. A. Byers
Jas. C. Carter
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Herbert Cook
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
C. L. Hammons
Thomas W. Hines
John M. Hunnicut
Ben W. Johnson
Leslie Larrimore
Lloyd MacDonald
W. F. McGary
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
Tyler Munford
Hobart Rayburn
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom

H. C. Steely
Henry Stewart
Dr. H. S. Swope
J. J. Thomas
R. Van Bever, Jr.
Henry Ward
L. R. Wells
W. G. Williams
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Mr. Hammons offered the following amendment to said bill, viz.:

Amend H. B. 41, page 4, after Section 3, by adding Section 3b:

Provided, however, that all gasoline that is used in combustion engines that propel farm tractors, grist mills, saw mills, drilling machinery, light, heat and power plants, shall be exempt from the provisions of this Act and upon verified application to the proper officials said tax shall be refunded.

Said amendment was disagreed to.

Mr. Matherly offered the following amendment to said bill, viz.:

Amend H. B. 41, page 4, Section 3-a, by adding thereto: ''all gasoline, kerosene and oil used by the counties and municipalities of the Commonwealth in trucks and machinery used for building and maintaining roads and streets within their confines, shall be exempt from taxes by the Commonwealth and this provision shall be administered by the State Highway Department refunding the same to said counties and municipalities upon application therefor and proof verified by the proper officials that said kerosene, gasoline and oil had been used for said purposes''.

Mr. Myers raised the point of order that said amendment was not germane in that in effect it provided for an appropriation from the Highway Department funds.

The Speaker ruled that the point of order, as raised by Mr. Myers, was well taken.

Mr. Myers moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Garnett moved that said bill and amendments be laid on the Clerk's desk, for the purpose of allowing time to draw a suitable and germane amendment.

Said motion was disagreed to.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Ben Grogan
Jas. T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette

John M. Hunnicut
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
L. R. Wells
W. G. Williams
Charles Wylie
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There voted in the negative—

Dr. R. A. Byers —1

Resolved that the title thereof be as aforesaid.

Mr. Hulette moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Gnau moved that the Rules of this House be suspended for the purpose of introducing a resolution.

Said motion was agreed to.

Thereupon Mr. Milam offered the following resolution, viz.:

Whereas, Because of the removal of the carpet from the House Chamber and failure to replace or substitute some suitable floor covering there do obtain serious inconveniences, misunderstandings of matters under discussion, because of extreme noise and din due to the reverberation of the voice and footsteps on the concrete floor, and

Whereas, Some of the membership are becoming ill with rheumatism, neuritis, colds and other afflictions due to the bare concrete: Now, Therefore,

Be it Resolved by the House of Representatives, That the proper department of the State government be advised by the House Clerk of conditions and urgently request to replace as soon as possible some suitable floor covering and that the department involved notify the Speaker of the House when the remedy may be anticipated.

Said resolution was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 49. An Act to repeal Section 7 of Chapter 74 of the Acts of 1926, being an Act relating to revenue and taxation, providing for corporation license tax for certain corporations, providing the manner of making reports and determining the amount of tax and the manner of paying same, prescribing penalties and repealing existing statutes; said section now being Section 4189-7 of Carroll's Kentucky Statutes, 1930 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 7 of Chapter 74 of the Acts of 1926, being an Act relating to revenue and taxation, providing for corporation license tax for certain corporations, providing the manner of making reports and determining the amount of tax and the manner of paying same, prescribing penalties and repealing existing statutes; said section now being Section 4189-7 of Carroll's Kentucky Statutes, 1930 Edition, be and the same is hereby repealed.

Mr. Joe Robinson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
George W. Dunlap
Howard G. Early
Garland Embry
T. P. Fitzpatrick
H. Myer Garner
G. W. Garrett
Ferd A. Gnau
Ben Grogan
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
C. S. Matherly

D. T. Matlack
Duke Mayfield
W. H. Miller
John B. Mollett
W. E. Mull
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
W. G. Williams
Charles Wylie
—75

There voted in the negative—

James Garnett, Jr. —1

Resolved that the title thereof be as aforesaid.

Mr. Joe Robinson moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

A message was received from the Senate announcing that they had passed a bill which originated in this House entitled:

H. B. 45. An Act relating to revenue and taxation imposing a license tax on race tracks at which horse racing shall be conducted for any stake, etc.

And that they had adopted the Report of the Committee on Conference, receded from amendments Nos. 12, 15 and 18, and agreed to the amendment, proposed by the Committee on Conference to a bill which originated in this House, entitled:

H. B. 16. (For bill and amendments, see House Journal of April 14.)

And that they had passed said bill.

Said Report of the Committee on Conference is as follows, viz.:

The conference committee of the Senate and House appointed to consider Senate amendments numbers 12, 15 and 18 to House Bill No. 16, known as the Inheritance Tax Act, reports as follows:

The committee unanimously agreed to request, and does hereby request, the Senate to recede from its position on Senate amendments numbers 12, 15 and 18, and that the vote by which said amendments were adopted be reconsidered and the amendments rejected. The Committee in lieu of said amendments has agreed to recommend the following amendment:

Amend House Bill No. 16 in the Senate by striking out the last sentence in paragraph (5) of section 1, said sentence being found in lines 74 through 78, both inclusive, on page 4, and substitute in lieu thereof the following:

"It is further provided that the proceeds payable under any life insurance policy or policies on the death of the assured, whether payable to a designated beneficiary or to the assured or his estate shall be taxable as a part of the legacy or legacies as distributable shares of the beneficiary or beneficiaries, except that the proceeds of an insurance policy or insurance policies, payable to a designated beneficiary or beneficiaries other than the assured or his estate, not to exceed ten thousand dollars ($10,000.00) in the aggregate shall be tax free under the terms of this Act, and the tax-free portion shall be divided among the beneficiaries in proportion to the proceeds payable to each of the respective beneficiaries."

Wherefore, your committee having reported, it respectfully requests that it be discharged.

W. R. Tapp.
J. Lee Moore.
Edwin C. Dawson.
Rodes K. Myers.
Joe E. Robinson.
E. C. Moore.

Mr. Hammons moved that the House do now adjourn to meet again on Monday, April 27, at one o'clock P. M.

Said motion was disagreed to.

Mr. Myers moved that the Report of the Committe on Conference be adopted.

Said motion was agreed to.

The amendment as proposed by the Committee on Conference was then agreed to.

Said bill was then passed, as amended by the Committee on Conference.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
George W. Dunlap
Howard G. Early
Garland Embry
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Ben Grogan
Jas. T. Hamilton
W. L. Hampton, Jr.

Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
W. F. McGary
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
L. R. Wells
W. G. Williams
John Kirtley, Spkr.

—76

There voted in the negative—

Dr. H. S. Swope —1

Mr. Tapp moved that the vote by which said bill was passed, as amended be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bills be delivered to the Enrolling Clerk of this House.

Mr. Van Bever moved that the House do now adjourn to meet again on Monday, April 27, at one o'clock P. M.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Van Bever and Hammons, were as follows, viz.:

Those who voted in the affirmative were—

H. T. Baker
G. M. Ballard
Dr. R. A. Byers
J. A. Coleman
Garland Embry
James T. Hamilton
C. L. Hammons
Leslie Larrimore
W. H. Miller
Tyler Munford
Ray O. Shehan
H. C. Steely
R. Van Bever, Jr.
—13

Those who voted in the negative were—

Henry H. Allen
C. W. Anderson, Jr.
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
Roy Conway
Herbert Cook
Sam Dever
George W. Dunlap
Howard G. Early
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ben Grogan
W. L. Hampton, Jr.
Thomas W. Hines
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
T. B. McConnell
Lloyd MacDonald
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
W. E. Mull
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
L. R. Wells
W. G. Williams
Charles Wylie
—62

Dr. Shields moved that the Rules of this House be suspended for the purpose of introducing bills.

Said motion was agreed to.

Thereupon Mr. Farnsley offered the following bill, viz.:

H. B. 57. An Act relating to revenue and taxation, to provide a state tax on the filing of certain actions in law or in equity in the Circuit, Quarterly and Magistrates Courts; to provide a state tax on appeals to the Quarterly and Circuit Courts in certain actions; to provide a state tax on appeals to and actions in the Court of Appeals; to provide a state tax on the filing and recording of conveyances, mortgages or other deeds of trust, powers of attorney to convey real estate; to provide a state tax on issuance of a marriage license; to provide a state tax upon seal of any court or executive, judicial or legislative department of this commonwealth; to provide a state tax upon the verdict of a petit jury in civil cases in the Circuit Court; to provide a state tax upon the filing and registering of any plat and/or certificate of survey, and the issuing and recording of a patent in certain cases; to provide a state tax on the filing of a caveat, mandamus or other proceedings affecting the land office, upon the issuance of a land warrant or a copy thereof, upon a copy of a plat, or upon a copy of a course and distance of a patent or survey; to provide a state tax upon certain papers whereupon the State seal shall be impressed by request or required by Statute, excepting when the paper is for the use of the Commonwealth or any department office, bureau or official; by whom to be collected; providing for reports and payment by the collecting officer to the State Treasurer, providing for penalties and forfeiture of office upon conviction for failure and/or refusal to collect and/or remit said tax; to provide for the disposition of proceeds of said tax by the State Treasurer; providing for the repeal of Kentucky Statutes, Section 4238 as amended, and all sections and parts of sections in conflict herewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The Clerk or Recorder of any Court of this Commonwealth shall collect upon the filing of each original action or proceeding, when the amount in controversy, exclusive of interest and cost, exceeds fifty dollars, the sum of fifty cents, provided, however, that such Clerk or Recorder shall collect said tax in all writs of forcible entry or detainer and traverse thereon and distress warrants and all proceedings to revive a judgment irrespective of the amount involved therein.

§ 2. The Clerk of the Circuit and/or the Quarterly Courts of this Commonwealth shall collect upon the filing of each appeal in their respective Court the sum of fifty cents.

§ 3. The Clerk of the Court of Appeals of Kentucky shall collect upon the filing of each appeal or on each original action in the Court of Appeals of Kentucky, the sum of five dollars.

§ 4. The Clerk of the County Court of each county in this Commonwealth shall collect upon the filing for record of any conveyance, mortgage, lien or other deeds of trust, powers of attorney, options, mechanic's or materialman's lien, lease, easement, assigned tax lien, and any other paper so filed for record relating to, and of real estate, or any interest therein, or lien of conveyance of gas, oil, coal, or other mineral right or privilege, the sum of fifty cents.

§ 5. That the Clerk of the County Court shall collect upon the issuance of each marriage license the sum of three dollars and fifty cents.

§ 6. That the Clerk and/or Recorder of each Court and each officer in charge of any executive, judicial or legislative department or office of this Commonwealth shall collect the sum of fifty cents upon the issuance of any paper whereon the seal of the Court, or of the legislature, judicial or executive department, may be impressed by request, or required by Statute.

§ 7. That the Clerk of each Circuit Court shall collect upon the verdict of a petit jury in civil actions in the circuit court the sum of four dollars; said tax shall be paid when the parties withdraw a jury or the plaintiff declares or sustains a non-suit after the jury is sworn.

§ 8. That the Secretary of State shall collect the sum of two dollars and fifty cents upon the filing and registering in the land office, a plat and certificate of survey, and issuing and recording a patent thereon for each survey consisting of ten acres or less, and the sum of five dollars for each survey consisting of more than ten acres; the sum of twenty-five cents upon the filing in said office, of a copy of a judgment of a court in a case of caveat, mandamus or other proceeding affecting the land office or the duties of the register; one dollar for issuing a land warrant; for a copy of a plat, or for a copy of a course and distance of any patent or survey, or for a copy of an entry or land warrant; fifty cents for a copy of an assignment; two cents for each twenty words in a caveat, or any writing not specifically provided for; the sum of one dollar upon any paper whereupon the seal of the Commonwealth of Kentucky shall be impressed, either by request, or required by law, provided however, that said charge shall not be collected when said paper or papers shall be for the benefit or use of this Commonwealth or of any department, office, bureau or official acting in his official character.

§ 9. The persons authorized by this act to collect said tax shall keep an accurate record of each tax collected and remit the same, on or before the 10th day of the following month wherein said tax is collected after the passage and approval of this act, to the State Treasurer.

§ 10. Any person who shall, by this act be empowered to collect said tax, or his deputy or assistant, and who shall fail to collect said tax as required by this act, or who shall fail and/or refuse to remit the same as required by this act, shall, upon conviction, be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than $100.00 nor more than $1,000.00, and confined in jail for not less than sixty days nor more than six months, or both, in the discretion of the jury, and upon conviction, he shall be removed from his office, and be ineligible to hold, either by appointment or election, any public office within the Commonwealth of Kentucky.

§ 11. The tax collected by the State Treasurer shall be deposited to the credit of the Sinking Fund of this Commonwealth, and used solely for the purpose of retiring any State indebtedness by way of bonds or warrants, but shall, in no event, be used to pay any interest on any indebtedness by way of, or on any bonds or warrants.

§ 12. Chapter 22, Article XIV, Section 1 of the 1906 Acts of the General Assembly of Kentucky, as amended by Chapter 151 of the 1932 Acts of the General Assembly of Kentucky, and Chapter .... of the 1936 Acts of the General Assembly of Kentucky, and all sections and parts of sections in conflict herewith are hereby expressly repealed.

Ordered that said bill be printed and referred to the Committee on Revenue and Taxation No. 1.

Mr. Brown of the Committee on Revenue and Taxation No. 1, to which the same had been previously referred, reported a bill entitled:

H. B. 54. An Act relating to revenue and taxation and declaring an emergency.

With the expression of opinion that said bill ought to pass.

Said bill was read at length the first time and ordered to be placed on the Calendar.

Dr. Shields moved that the House hold an open hearing on said bill last above named, on Monday, April 27, at two-thirty o'clock P. M.

Said motion was agreed to.

Dr. Shields moved that the House do now adjourn, to meet again on tomorrow at ten-thirty o'clock A. M

Said motion was agreed to.

And then the House adjourned.

FRIDAY, APRIL 24, 1936.

The House was opened with prayer by the Reverend Father O'Dwyer of the Roman Catholic Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
Howard G. Early
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
Robert E. Lee
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo

A. W. Ross
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

Mr. Shehan moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Ordered that a leave of absence be granted to Messrs Larrimore, O'Neill, Rayburn and Reuben J. Bowling.

Mr. Mollett moved that the privilege of the floor be extended to Mr. John Spears.

Said motion was agreed to.

Mr. Fannin moved that the privilege of the floor be extended to Mr. Robert Fannin.

Said motion was agreed to.

Mr. Grogan moved that the privilege of the floor be extended to Dr. and Mrs. D. H. Sires.

Said motion was agreed to.

Mr. Gnau moved that when the House adjourn today, it adjourn to meet again on Monday, April 27, at one o'clock P. M.

Said motion was agreed to.

Mr. Munford moved that the vote by which the House agreed that when it adjourns today, it adjourn to meet again on Monday, April 27, at one o'clock P. M., be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Myers moved that the Rules of this House be suspended for the purpose of taking up for consideration, the Orders of the Day.

Said motion was agreed to.

Thereupon the House took up for consideration from the Calendar, a bill entitled:

H. B. 54. An Act relating to revenue and taxation and declaring an emergency.

Ordered that said bill be read the second time.

The Constitutional provision as to the second reading of said bill at length being dispensed with, said bill was read the second time by its title only.

Ordered that said bill be placed in the Orders of the Day.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 51. An Act relating to revenue and taxation of the gross receipts of utilities and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions*:

(a) The word "person" as used in this Act includes individuals, co-partnerships, business trusts, joints stock companies, and corporations.

(b) The term "gross receipts" as used in this Act shall be construed to mean the amount received in money, credits, property, or other money's worth, regardless of whether or not the form thereof be enumerated herein. Provided, that in case the business is conducted on credit the consideration shall be deemed to be gross receipts when payment shall be made in cash, property, or other money's worth, regardless of whether or not the form be enumerated herein.

(c) The term "taxpayer" as used in this Act includes all persons required hereunder to make reports and pay the tax or taxes imposed by this Act.

(d) The term "Department" as used in this Act shall mean the Department of Revenue of the Commonwealth of Kentucky.

(e) The word "sale" as used in this Act includes the transfer of services for valuable consideration as well as similar transfers of property.

(f) The word "gas" as used in this Act shall mean the substance or substances commercially known as "illuminating gas".

§ 2. An excise tax is hereby imposed on the sale of electric current, water, artificial, natural or mixed gas, and on furnishing the ways and means for the transmission of the voice or messages other than those transmitted by United States Mail from one person in the Commonwealth to another person in the Commonwealth, equal to three per cent (3%) of the aggregate gross receipts of such persons so engaged in such respective businesses; and every such person is required to collect the tax from the purchaser and account to the State of Kentucky for such tax in the manner provided in this Act. Provided, however, that no tax shall be imposed upon the transmission of the voice and/or messages for, or upon sales of electric current, water, artificial, natural or mixed gas to, the United States, this State, any Kentucky municipality, and political subdivision of this State, or any charitable, religious, or educational institution in Kentucky; and provided, further, that no tax is by this section imposed upon sales of electric current, water, artificial, natural or mixed gas for the purpose of resale, nor upon the sale of electric current or artificial or natural gas for use in manufacturing, processing, mining or refining. Sales of electric current, water, artificial, natural or mixed gas, in interstate commerce are specifically excluded from the provisions of this Act.

§ 3. The taxpayer is hereby required to keep and preserve such written and other records as the Department may require to facilitate enforcement of this Act. On or before the expiration of fifteen (15) days following the end of each month, beginning with the month after which this Act becomes effective, the taxpayer shall mail to or file with the Department a verified written report of the total gross receipts made during the preceding month, together with such additional information as the Department may require for enforcement of this Act, and shall remit with said report the amount of tax due under Section 2 of this Act. Provided, however, that the Department, on the basis of information herein authorized to be secured or on the basis of an audit of the return, may require additional payments if found to be due.

§ 4. The Department is hereby charged with the enforcement of this Act and may promulgate such rules and regulations and prescribe such forms as are necessary or desirable for the enforcement of its provisions. This Department, or any representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment and/or meters of any taxpayer pertaining to the gross receipts made taxable by this Act; to examine witnesses under oath for the purpose of verifying the accuracy of returns made by taxpayers; and to examine the books, records, papers, files, equipment and/or meters of manufacturers, wholesale dealers, or carriers, including pipe line companies, for the purpose of verifying reports made under the provisions of this Act or of determining whether or not the Act is being violated.

The Department shall have the power to institute legal proceedings for the purpose of ascertaining the amount of tax due under the provisions of this Act and to enforce the collection thereof with the penalties thereon. The Department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalties and interest thereon, as set out herein, have an attachment against the property of the taxpayers or garnishment against his creditors without the execution of a bond upon the filing of an affidavit alleging the nature of the claim, that it is just, the sum which the Department believes the State should recover from the taxpayer, and any of the grounds upon which the Civil Code of Practice authorizes the issuance of an attachment in civil causes.

§ 5. Any information obtained by the Department or any agent or representative thereof, as a result of the reports, investigations, or verifications herein authorized to be made, shall be confidential and any person divulging any such information, except upon order of a court of competent jurisdiction or to an officer of the Commonwealth entitled to receive the same in his official capacity, shall be fined not exceeding five hundred dollars ($500.00).

§ 6. No suit shall be maintained in any court to restrain or delay the collection of the tax herein imposed on any ground whatever, but the aggrieved taxpayer shall pay under protest the tax as and when required and may at any time within two (2) years after date of such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in an action in any court, State or Federal, otherwise having jurisdiction of the subject matter for the recovery of the tax so paid with legal interest thereon from the date of payment. If it be finally determined that said tax or any part thereof was wrongfully collected for any reason it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected, together with interest thereon; and the Treasurer shall pay the same at once out of the General Expenditure Fund of the State in preference to other warrants or claims against the Commonwealth. Separate suits need not be filed for each separate payment by any taxpayer, but recovery may be had in one suit for all amounts theretofore paid and not barred by the limitation of two (2) years herein imposed.

§ 7. Any taxpayer who shall fail or refuse to make the returns herein prescribed or shall refuse to permit the Department, its agents, or representatives appointed by it in writing, to examine books, records, papers, files, equipment and/or meters of such persons pertaining to the gross receipts made taxable by this Act, or who makes an incomplete false, or fraudulent return hereunder, or who does or attempts to do anything whatever to avoid full disclosure of the amount of business done or to avoid the payment of the whole or any part of the tax or penalties due, shall be guilty of a misdemeanor and upon conviction shall be fined not exceeding one thousand dollars ($1,000) and, in case the offender is an individual, may be imprisoned in the county jail not exceeding six (6) months or both so fined and imprisoned, provided that in case such violator be a business trust, joint stock company, corporation or fiduciary, the principal officer and/or the officer or officers responsible for such violation may be punished by such imprisonment. Such fine shall be additional to other fines and/or penalties herein provided. Any taxpayer who shall fail to pay the tax due hereunder in the time specified in this Act shall pay a penalty equal to twenty per cent (20%) of the amount of tax due and delinquent and in addition thereto interest at the rate of six per cent (6%) per annum on both the original amount of tax and the penalty imposed in this paragraph.

§ 8. All revenues derived from the operation of this Act shall, as collected, be covered into the State Treasury and credited to the General Expenditure Fund.

§ 9. Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State government and its agencies, an emergency is declared to exist; and this Act shall become a law and be effective on its passage and approval by the Governor.

Mr. Grau moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
W. T. Baker
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
V. O. Chandler

Roscoe Claxon
George S. Clay
Roy Conway
Sam Dever
Stanley S. Dickson
George W. Dunlap
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
Ferd A. Gnau
Eugene Gough
Ben Grogan
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
John M. Hunnicut
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
W. E. Mull
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
L. K. Rice
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
W. R. Tapp
J. J. Thomas
Joseph L. Wall
W. G. Williams
John Kirtley
—56

Those who voted in the negative were—

H. T. Baker
Jas. C. Carter
J. A. Coleman
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
C. L. Hammons
Thomas W. Hines
Ira W. Hulette
Robert E. Lee
John B. Mollett
Tyler Munford
Wade H. Riley
Ray O. Shehan
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
S. J. Wagner
Henry Ward
L. R. Wells
Charles Wylie
—23

Resolved that the title thereof be as aforesaid.

Mr. Gnau moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Dickson of the Committee on Enrollment, reported that they had examined and found to be correctly enrolled, bills of the following titles, viz.:

H. B. 16. An Act concerning revenue and taxation and declaring an emergency.

H. B. 45. An Act relating to revenue and taxation; imposing a license tax on race tracks at which horse racing shall be conducted for any stake, etc.

Thereupon all other business was suspended, said bills were read at length and compared in open session and found to be correctly enrolled, and thereupon, the Speaker, in open session, and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bills to the Senate.

After a time the Enrolling Clerk delivered the original and enrolled copies of said bills duly signed by the President of the Senate, into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bills to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 53. An Act relating to the licensing of motor vehicle operators and providing for the definition of terms; and that operators shall be licensed; persons exempt from licenses; certain exemptions for non-residents from license; what persons shall not be licensed; stipulating age limits for drivers of school busses and public passenger motor vehicles;

instruction permits and temporary licenses; application for operator's license or instruction permits; application of minors; designation of circuit court clerks as agent of Department; register of operators to be maintained; licenses issued to operators; duplicate license certificates; licenses to be signed and carried; expiration of license; court to report convictions and suspension of license; mandatory suspension or revocation of licenses issued by the Department; court or Department may provide for a hearing and appeal; right of appeal; new license after revocations; when parent, guardian, or employer liable for negligence of minor; owner liable for negligence of minor; violation of license provisions; making false affidavit perjury; unlawful for violations of Act to be permitted; or to drive while license suspended or revoked; unlawful to drive while license suspended or revoked; providing penalty for misdemeanor; providing penalty for driving while license suspended or revoked; *prima facie* evidence of negligence in accident; short title; constitutionality; repeal; and emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definition of terms*:

The following words and phrases when used in this Act shall for the purpose of this Act have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning.

(a) "Vehicle." Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or trucks.

(b) "Motor Vehicle." Every vehicle, as herein defined, which is self-propelled.

(c) "Farm Tractor." Every motor vehicle designed and used primarily as a farm implement for drawing plows, sowing machines and other implements of husbandry.

(d) ''Person.'' Every natural person, firm, co-partnership, association or corporation.

(e) ''Owner.'' A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event of a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this Act.

(f) ''Operator.'' Every person, other than a chauffeur, who is in actual physical control of a motor vehicle upon a highway.

(g) ''Non-Resident.'' Every person who is not a resident of this State.

(h) ''Highway.'' Every way or place of whatever nature open as a matter of right to the use of the public for purposes of vehicular travel. The term ''highway'' shall not be deemed to include a roadway or driveway upon grounds owned by private persons, colleges, universities, or other institutions.

(i) ''Department'' shall mean the Department of Revenue of the Commonwealth of Kentucky.

(j) ''Commissioner'' shall mean the Commissioner of Revenue.

§ 2. *Operators shall be licensed:*

Every person except those expressly exempted under Sections 3, 4, and 7 of this Act and except those required to procure chauffeur's license under Carroll's Kentucky Statutes, 1930 Edition, Sections 2739g-15 to 2738g-21 inclusive, before operating any motor vehicle upon any highway in this Commonwealth, shall procure an operator's license. The first license under this Act shall be obtained not later than August 1, 1936. License shall cost one dollar ($1.00), fifteen cents (15c) to be retained by the Circuit Court Clerk to defray expenses for administering the provisions of this Act, and five cents (5c) shall be forwarded to the Department by the Clerk for the use of the Department for printing of necessary forms, inspections and expenses for administering the provisions of this Act, and the additional eighty cents (80c) derived from the provisions of this Act shall be covered into the State Treasury and credited to the general expenditure fund.

§ 3. *Persons exempt from license:*

(a) No person shall be required to obtain an operator's license for the purpose of driving or operating a road roller, road machinery, or any farm tractor or implement of husbandry temporarily drawn, moved or propelled on the highways.

(b) Every person in the service of the Army, Navy, or Marine Corps of the United States and when furnished with a driver's permit and when operating an official vehicle in such official service shall be exempt from license under this Act.

§ 4. *Non-residents, when exempt from license:*

(a) A non-resident over the age of sixteen years, who has been duly licensed either as an operator under a law requiring the licensing of operators in his home state or country and who has in his immediate possession a valid operator's license issued to him in his home state shall be permitted without license under this Act to drive a motor vehicle upon the highways of this State. Provided, however, that this exemption shall not apply unless such state accord licensed residents of Kentucky the same exemption.

(b) A non-resident over the age of sixteen (16) years whose home state does not require the licensing of operators and who has duly registered his own motor vehicle for the current calendar year in such home state shall be permitted to operate said motor vehicle upon the highways of this state for a period not longer than thirty (30) days in any one year without making application for obtaining an operator's license under this Act. Provided, however, that such non-resident may be required at any time or place to prove lawful ownership, and the right to operate such motor vehicle and establish his identity.

Provided, however, that the Department of Motor Vehicles reserves the right at any time to refuse or discontinue the exemptions set out in this section for any grounds upon which a license issued under this Act may be revoked or suspended.

(c) Any non-resident or other person whose operator's license or right or privilege to operate a motor vehicle in this State has been revoked or suspended as provided in this Act shall not operate a motor vehicle in this State under a license, permit or registration certificate issued by any other jurisdiction, or otherwise operate a motor vehicle in this State during the period of such suspension, or within one year after the date of such revocation. Any person operating a motor vehicle in violation of this section shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Section 29 of this Act.

§ 5. *What persons shall not be licensed*:

(a) An operator's license shall not be issued to any person under the age of sixteen years.

(b) The Department shall not issue an operator's license to any person whose license as operator has been suspended during the period for which such license was suspended, nor to any person whose license as operator has been revoked under the provisions of this Act, nor to any non-resident whose privilege of exemption under Section 4 of this Act, has been refused or discontinued, until the expiration of one year after such license was revoked.

(c) The Department shall not issue an operator's license to any person who it has determined is an habitual drunkard or is addicted to the use of narcotic drugs.

(d) No operator's license shall be issued to any applicant who has previously been adjudged insane or an idiot, imbecile, epileptic or feeble-minded, and who has not at the time of such application been restored to competency by judicial decree or released from a hospital for the insane or feeble-minded upon a certificate of the superintendent that such person is competent, nor then, unless the Department is satisfied that such person is competent to operate a motor vehicle with safety to persons and property.

(e) The Department shall not issue an operator's license to any person when in the opinion of the Department such person is afflicted with or suffering from such physical or mental disability or disease as will serve to prevent such person from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways, nor shall a license be issued to any person who is unable to understand highway warning or direction signs in the English language.

(f) The Department shall not issue an operator's license to any person who is required by this Act to take an examination unless such person shall have successfully passed such an examination.

(g) The Circuit Court Clerk shall not issue an operator's license to any person who has suffered the loss of either an arm or limb, until such applicant has passed the examiantion as prescribed by this Act, and the Clerk's recommendations forwarded to the Department and then only shall the Clerk issue a license when so instructed by the Department.

§ 6. *Age limits for drivers of school busses and public passenger-carrying motor vehicles*:

It shall be unlawful for any person, whether licensed under this Act, or not, who is under the age of twenty-one years, to drive a motor vehicle while in use as a school bus for the transportation of pupils to or from school, or to drive a motor vehicle while in use as a public passenger-carrying vehicle.

§ 7. *Instruction permits and temporary licenses*:

(a) Any person who, except for his lack of instructions in operating a motor vehicle, would otherwise be qualified to obtain an operator's license under this Act, may apply for a temporary license and instruction permit, and the Circuit Court Clerk shall issue such permit, entitling the applicant, while having such permit in his possession, to drive a motor vehicle, except a motorcycle, upon the highways for a period of thirty (30) days, but, except when operating a motorcycle, such person must be accompanied by a licensed operator or chauffeur who is actually occupying a seat beside the driver.

§ 8. *Application for operator's license or instruction permit*:

(a) Every application for an instruction permit or for an operator's license shall be made to the Clerk of the Circuit Court upon a form furnished by the Department and shall be verified by the application before a person authorized to administer oaths.

(b) Every said application shall state the full name, date of birth, sex, race, and residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant has heretofore been licensed as an operator, and, if so, when and by what state or country and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation or refusal.

§ 9. *Application of minors*:

The Department shall not grant the application of any minor under the age of eighteen years for an operator's license or instruction permit unless such application is signed by the father of the applicant, if the father is living, and has custody of the applicant, otherwise by the mother or guardian having the custody of such minor, or in the event the minor under the age of eighteen years has no father, mother or guardian, then an operator's license or instruction permit shall not be granted to the minor unless his application therefor is signed by his employer.

§ 10. *Designation of Circuit Court Clerk*:

The Circuit Clerk of each county is hereby authorized and designated to act for the Department for the purpose of issuing operators' licenses, and keeping in his office at all times available to the Department, a record of all licenses issued in his county, and all violations occurring within his county under this Act. It shall be the duty of the Clerk to forward a copy of the application received from a person not residing in the county to which he has applied for license to the Clerk of the county in which applicant resides. It shall be the duty of the Circuit Court Clerk to adminster the oath required under this Act to applicant without fee.

§ 11. *Register of Operators*:

(a) The Department shall file every application for an operator's license numerically, and keep a record of licenses which have been suspended or revoked.

(b) In the case of a suspension or revocation of a license by the Department, it shall immediately transmit to the Circuit Court Clerk of the county of the operator's residence notice of such suspension or revocation and such other information as may be necessary.

(c) The Circuit Court Clerk shall file every application for an operator's license and index the same by name and also by number and maintain suitable records of all licenses issued and all applications for licenses denied, also a record of all licenses which have been suspended or revoked, also a record of all licenses reported to him as issued in a foreign county, as well as a record of the suspensions and revocations thereof.

§ 12. *Licenses issued to operators*:

(a) If the Circuit Court Clerk shall determine that the applicant, having fully complied with the sections of this Act governing application and examination, is entitled to an operator's license, he shall issue same.

(b) Every such license shall bear thereon the county in which issued and the distinguishing number assigned to the license, and shall contain the name, age, resident address and a brief description of the licensee for the purpose of identification, also a space for the signature of the licensee.

§ 13. *Duplicate license certificates*:

In the event that an operator's license issued under the provisions of this Act shall be lost or destroyed, the person to whom same was issued may obtain a duplicate or substitute thereof by applying in person and upon furnishing proof satisfactory to the county issuing the original license that such license has been lost or destroyed, and upon payment of twenty-five cents (25c) to be retained by the clerk.

§ 14. *License to be signed and carried*:

The licensee shall have such license in his immediate possession at all times when driving a motor vehicle and shall display the same upon demand to the Circuit Court Clerk or examiner, to a justice of the peace, a peace officer or a field deputy or inspector of the Department. It shall be a defense to any charge under this subsection that the person so charged produce in court an operator's license, issued to such person before such arrest and valid at the time of his arrest.

§ 15. *Expiration of licenses*:

Every operator's license shall expire at midnight, July 31, each year. Ever ysuch license shall be renewable on or before its expiration upon application and payment of the required fee of one dollar ($1.00) and shall be renewed without any examination unless the Department has reason to believe that the licensee is no longer qualified to receive a license.

§ 16. *Court to report convictions and suspension of license:*

Any Circuit Court having jurisdiction over offenses committed under this Act or any other Act of this state regulating the operation of motor vehicles on highways may suspend or revoke the operator's license of the person so convicted, and shall report the conviction, suspension, or revocation to the Circuit Court Clerk who shall forward such inofrmation to the Department, provided that inferior courts may recommend to the Circuit Court a suspension or revocation of any license issued under this section.

§ 17. *Mandatory suspension or revocation of licenses issued by the Department:*

(a) It shall be the duty of the Circuit Court having jurisdiction to forthwith revoke the license of any person convicted of any of the following crimes:

(1) Manslaughter resulting from the operation of a motor vehicle.

(2) Driving a vehicle while under the influence of intoxicating liquor, or narcotic drug.

(3) Perjury or the making of a false affidavit to the Department under this Act or any other law of this State requiring the registration of motor vehicles or regulating their operation on highways.

(4) Any crime punishable as a felony under the motor vehicle laws of this State or any other felony in the commission of which a motor vehicle is used.

(5) Conviction or forfeiture of bail upon three charges of reckless driving all within the preceding twelve months.

(6) A conviction of a driver of a motor vehicle, involved in an accident resulting in the death or injury of another person upon a charge of failing to stop and disclose his identity at the scene of the accident.

(b) The Department upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of such person is suspended or revoked, shall immediately extend the period of such first suspension or revocation for an additional like period.

§ 18. *Discretionary suspension or revocation by Court or Department*:

(a) The Court or Department may immediately suspend the license of any person with or without hearing and with or without receiving a record of conviction of such person of crime whenever the Court or Department has reason to believe:

(1) That such person has committed any offenses for the conviction of which mandatory revocation of license is provided in Section 17.

(2) That such person has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury or serious property damage.

(3) That such person is incompetent to drive a motor vehicle or is affilicted with mental or physical infirmities or disabilities rendering it unsafe for such person to drive upon the highways.

(4) That such person is an habitual reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws of this state.

(b) The Department is hereby authorized to suspend or revoke the right of any non-resident to operate a motor vehicle in this state for any cause for which the license of a resident operator may be suspended or revoked, and any non-resident who operates a motor vehicle upon a highway when his right to operate has been suspended or revoked by the Department shall be guilty of a misdemeanor and subject to punishment as provided in Section 28.

(c) The Department is hereby authorized to suspend or revoke the license of any resident of this state upon receiving notice of the conviction of such person in another state of an offense therein which if committed in this state, would be grounds for the suspension or revocation of the license of an operator. The Department is further authorized upon receiving a record of the conviction in this state of a non-resident driver of a motor vehicle of any offense under the motor vehicle laws of this state to forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

(d) The Department shall not suspend a license for a period of more than one year and upon suspending or revoking any license shall require that such license so suspended or revoked shall be surrendered to and retained by the Department except that at the end of a period of suspension such license so surrendered shall be returned to the licensee.

§ 19. *Right of appeal*:

The hearing granted the licensee under Section 18 of this Act shall be held under the same legal procedure and rights of parties as in criminal trials in the county court.

Any person denied a license, or whose license has been suspended and/or revoked by the Court of the Department shall be granted an appeal from the order of the Court or Department denying such license, or from the order or judgment of the Court or Department on hearing, to the circuit court of the county in which the offense was committed, which appeal and trial in the circuit court shall be governed by the same procedure as on appeals from inferior courts to the circuit court, and the chief agent or representative of the Department in said county shall be the agent of the Department for the service of all summons of other court process on all hearings, appeals or trials under the provisions of this Act. The licensee shall be granted a speedy trial in the circuit court after due notice by summons, but by agreement of parties the trial may be held at any time after filing of appeal.

The licensee may further pray and shall be granted an appeal from any final order or judgment entered or rendered against him in said circuit court, and the appeal and trial shall be the same as other cases of the circuit court on appeal except the case may be heard before the circuit judge during vacation by agreement of parties.

The circuit court is hereby vested with jurisdiction under the provisions of this Act. The licensee shall be entitled to a change of venue in the circuit court as provided by law.

§ 20. *New license after revocation*:

Any person whose license is revoked under this Act shall not be entitled to apply or receive any new license until the expiration of one year from the date such former license was revoked.

§ 21. *When parent, guardian, or employer liable for negligence of minor*:

Any negligence of a minor under the age of eighteen years licensed upon application signed as provided in Section 9, when driving any motor vehicle upon a highway, shall be imputed to the person who shall have signed the application of such minor for said license, which person shall be jointly and severally liable, with such minor, for any damages by such negligence.

§ 22. *Owner liable for negligence of minor*:

Every owner of motor vehicle causing or knowingly permitting a minor under the age of eighteen years to drive such vehicle upon a highway, and any person who gives or furnishes a motor vehicle to such minor shall be jointly and severally liable with such minor for any damage caused by the negligence of such minor in driving such vehicle.

§ 23. *Violation of license provisions*:

It shall be unlawful for any person to commit any of the following acts:

(a) To display or cause to permit to be displayed or to have in possession any operator's license knowing the same to be fictitious or to have been canceled, revoked, suspended or altered;

(b) To lend to, or knowingly permit the use of by one not entitled thereto, any operator's license issued to the person so lending or permitting the use thereof;

(c) To display or to represent as one's own any operator's license not issued to the person so displaying the same;

(d) To fail to surrender to the Department upon demand, any operator's license which has been suspended, canceled or revoked as provided by law;

(e) To use a false or fictitious name or give a false or fictitious address in any application for an operator's license or any renewal or duplicate thereof, or knowingly to make a false statement or knowingy to conceal a material fact or otherwise commit a fraud in any such application.

§ 24. *Making false affidavit perjury*:

Any person who shall make any false affidavit, or shall knowingly swear or affirm falsely, to any matter or thing required by the terms of this Act to be sworn to or affirmed, shall be guilty of perjury and upon conviction shall be punished by fine or imprisonment as other persons committing perjury are punishable.

§ 25. *Unlawful to permit violations of Act*:

No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven by any person who has no legal right to do so or in violation of any of the provisions of this Act.

§ 26. *Unlawful to drive while license suspended or revoked*:

Any person whose operator's license has been suspended or revoked, as provided in this Act, and who shall drive any motor vehicle upon the highways of this state while such license is suspended or revoked, shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in Section 28 of this Act.

§ 27. *Penalty for misdemeanor:*

(a) It shall be a misdemeanor for any person to violate any of the prosisions of this Act unless such violation is by this Act or other law of this state declared to be a felony.

(b) Unless another penalty is in this Act or by the laws of this state provided, every person convicted of a misdemeanor for the violation of any provision of this Act shall be punished by a fine of not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500.00) or by imprisonment for not more than six months, or by both such fine and imprisonment.

§ 28. *Penalty for driving while license suspended or revoked:*

Any person convicted of a violation of Section 26 of this Act shall be punished by imprisonment in the county jail for a period of not less than seven (7) days nor more than six (6) months and there may be imposed in addition thereto a fine of not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500.00).

§ 29. *Evidence of negligence in accident:*

In addition to the penalties herein provided, if any driver involved in any accident resulting in any damage whatever either to person or to property shall be ineligible to procure operator's license herein provided for or being eligible therefor shall have failed to procure said operator's license, or having procured same yet at the time of such accident same shall have been suspended or revoked, he shall be deemed *prima facie* negligent in causing or contributing to cause such accident.

§ 30. *Short Title:*

This Act may be cited as the "Uniform Operator's License Act".

§ 31. *Constitutionality:*

If any part or parts of this Act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act.

§ 32. *Repeal:*

The existing operator's license, found in Chapter eighteen (18) of the 1934 Extraordinary Session of the General Assembly, now codified in Baldwin's Supplement to Carroll's Kentucky Statutes, Sections 2739m-1 to 2739m-32, inclusive, is hereby repealed, and all acts or parts of acts inconsistent with the provisions of this Act are hereby repealed.

§ 33. *Emergency:*

Whereas, the present State revenue does not meet the immediate needs of the maintenance of the State government, its agencies and subdivisions, an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor.

Be it provided, however, that the effective date of this Act shall be one o'clock A. M., of the date three calendar weeks from the day this measure is approved by the Governor.

Mr. Hunnicutt offered the following amendment to said bill, viz.:

Amend H. B. 53, Section 2, line 9, page 3 of the printed bill, after the word "clerk" and before the word "to" by inserting the following language:

"Except that in counties containing cities of first and second classes and having a population of seventy-five thousand or more, thirty cents (30c) may be retained by the Circuit Court Clerk."

Mr. Hunnicutt moved the Previous Question on said amendment and the bill.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Garnett moved that the vote by which the Previous Question was ordered, be reconsidered.

Said motion was disagreed to.

The yeas and nays being taken thereon were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
B. F. Bedford
Ollie J. Bowen
Jas. C. Carter
George S. Clay
A. Coleman
Howard G. Early
Walter R. Fannin
Chas. P. Farnsley
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Eugene Gough
Ben Grogan
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Robert E. Lee
Lloyd MacDonald
W. F. McGary
John Marshall
C. S. Matherly
D. T. Matlack
W. H. Miller
Wade H. Riley
Ray O. Shehan
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
Henry Ward

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Those who voted in the negative were—

F. T. Allen
Douglas Bolling
V. O. Chandler
Roscoe Claxon
Roy Conway
Herbert Cook
Sam Dever
George W. Dunlap
T. P. Fitzpatrick
Ferd A. Gnau
Price Holbrook
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
T. B. McConnell
J. L. McDermott
Elmer McGlothen
Duke Mayfield
W. E. Mull
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
L. K. Rice
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan

W. R. Tapp
S. J. Wagner
Joseph L. Wall
W. G. Williams
Charles Wylie
—41

By unanimous consent, said amendment was then withdrawn by Mr. Hunnicutt.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
W. T. Baker
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. E. Mull
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely

Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
L. R. Wells
W. G. Williams
—70

Those who voted in the negative were—

C. W. Anderson, Jr.
H. T. Baker
J. A. Coleman
C. L. Hammons
Robert E. Lee
John B. Mollett
Henry Stewart
R. Van Bever, Jr.
Henry Ward
Charles Wylie
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Resolved that the title thereof be as aforesaid.

Mr. Schneider moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Dr. Shields moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

MONDAY, APRIL 27, 1936.

The House was opened with prayer by the Reverend Hampton Adams of the First Christian Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter

Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
T. P. Fitzpatrick
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Ben Grogan
Jas. T. Hamilton
C. L. Hammons
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
Tyler Munford
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

Mr. Hammons moved that the reading of the Journal of Friday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Wells moved that the privilege of the floor be extended to Mr. M. O. Davis, of Cave City, Kentucky.

Said motion was agreed to.

Mr. Hulette moved that the privilege of the floor be extended to Miss Georgia Stone and Mr. Herman Harrod of Franklin County.

Said motion was agreed to.

Mr. Matlack moved that the House do now recess for thirty minutes for the purpose of allowing the Committee on Revenue and Taxation No. 1 to make a report on H. B. 3.

Without objection, said motion was then withdrawn by Mr. Matlack.

A message was received from the Senate announcing that they had passed a bill which originated in this House, entitled:

H. B. 46. An Act concerning revenue and taxation and declaring an emergency.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

Mr. Tapp offered the following resolution, viz.:

H. Res. 6. Whereas, the State Historical Society is now in possession of the portraits of all the former Governors of the Commonwealth of Kentucky, with the exception of former Governor William Jason Fields; and,

Whereas, the family of former Governor William Jason Fields is now desirous of presenting a portrait of him to the State Historical Society: Now, Therefore,

Be it Resolved by the House of Representatives, the Senate concurring therein, That the House of Representatives and the Senate of Kentucky meet in Joint Session on Thursday, April 30, at one o'clock P. M., for the purpose of allowing the family of that illustrious Governor, The Honorable William Jason Fields, to present the portrait of him to the State Historical Society.

Said resolution was then adopted.

Mr. Wagner sent the following notice to the Clerk's desk, viz.:

The House of Representatives of the Comonwealth of Kentucky will take notice:

That on Tuesday, April 28th, I, as representative of the sixty-fourth district of Kenton County, will move the House of Representatives to rescind their action taken upon the clincher motion, also the vote by which House Bill No. 4, was defeated.

Upon a call of the Counties and Legislative Districts, the following bills were introduced, viz.:

By Mr. Howard:

H. B. 58. An Act concerning revenue and taxation and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That every person, firm or corporation engaged in producing, bottling or distributing in bottles or other closed containers soda water, coca-cola, pepsi-cola, chero-cola, ginger-ale, grape and other fruit juices or imitation thereof, near beer, carbonated or malt or cereal beverages and all light preparations known as soft drinks, shall not use any machine, machines and/or apparatus for the filling or bottling of the same until such person, shall have first applied for, paid for and obtained in advance from the County Clerk of the county in which said concern is located a license, the fee for which, for each machine, shall be graded or proportioned as follows: 36 spouts, or greater capacity, low pressure filler, Seven Hundred Fifty ($750.00) Dollars. 32 spouts and less than 36 spouts low pressure filler, Six Hundred ($600.00) Dollars. 24 and less than 32 spouts, low pressure filler, Four Hundred Twenty-Five ($425.00) Dollars. 18 and less than 24 spouts, low pressure filler, Two Hundred and Ninety ($290.00) Dollars. 12 and less than 18 spouts, low pressure filler, Two Hundred and Ten ($210.00) Dollars. Less than 12 spouts, low pressure filler, One Hundred ($100.00) Dollars. Royal (8-head), Shields (6-head), Adriance (6-head) or other high pressure equipment having manufacturer's rating capacity of over sixty bottles per minute, Seven Hundred and Fifty ($750.00) Dollars. Royal (4-head, Adriance (2-head), Shields (2-head), full equipment having manufacturer's rating capacity of over fifty and not more than sixty bottles per minute, Five Hundred and Fifty ($550.00) Dollars. Royal (4-head), Adriance (2-head), (full automatic) or other high pressure equipment having manufacturer's rating capacity of more than forty and not more than fifty bottles per minute, Four Hundred and Fifty ($450.00) Dollars. Dixie (automatic), Shields (2-head hand feed), Adriance (1-head), Calleson (1-head), Senior (high-pressure), Junior (high-pressure) or Burns or other high pressure equipment having manufacturer's rating capacity of more than twenty-four bottles and not more than forty bottles per minute, Two Hundred and Ten ($210.00) Dollars. Single head Shields, Modern Bond (power), Baltimore (semi-automatic), and all other machines or equipment having manufacturer's rating capacity of not more than twenty-four bottles per minute and all foot-power bottling machines, Seventy-Five ($75.00) Dollars. Provided, that any bottling machine or apparatus not herein specifically mentioned shall bear the same tax as a bottling machine or apparatus of the nearest rated capacity as herein enumerated; provided further, that where any person has within his bottling plant or place of manufacture more than one bottling machine then such person shall pay the license herein specified upon every such bottling machine or apparatus whether in actual operation or not. The person applying for such license shall file an application, under oath stating the name, make, model of his machine, name and address of manufacturer, whether it be low-pressure equipment or high-pressure equipment or otherwise and give its spout and/or bottling capacity.

§ 2. Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State Government, an emergency is declared to exist, and this Act shall become a law and be effective upon its approval by the Governor.

By Mr. Matherly:

H. B. 59. An Act relating to revenue and taxation and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. (a) "Bottled drinks" for purposes of this Act shall be defined as all beverages sold in sealed, capped or stopped bottles, except those having an alcoholic content in excess of one per cent (1%) by volume, and include beverages such as coca-cola, ginger ale, lime soda, pepsicola, fruit juices, grapeola, soda water, and other beverages whether or not similar to those enumerated in this paragraph, under whatever trade name vended. Beverages described in this paragraph are defined for purposes of this Act as "soft drinks" whether sold in bottles or not.

(b) The word "syrup" shall be defined for purposes of this Act as being the compound mixture or basic ingredients used in the making, mixing or compounding of soft drinks, by mixing the same with water, ice, fruits, milk, and/or other commodities whether or not similar to those enumerated here, to make a vendable soft drink, commonly known as a "fountain drink," among such syrups being coca-cola syrup, chero-cola syrup, lemon syrup, vanilla syrup, chocolate syrup, rock candy syrup, simple syrup, grapeola syrup, cherry smash syrup, and/or prepared syrups, whether or not similar to those enumerated here, under whatever name vended, manufactured or sold for the purpose of making soft drinks, other than bottled drinks. "Syrups" shall not include any commodity containing in excess of one per cent (1%) alcohol by volume.

(c) The term "sale" shall be defined for purposes of this Act as including all transfers and exchanges of tangible personal property for money or other valuable consideration.

(d) The term "distributor" shall be defined for purposes of this Act as including every person charged under this Act with the duty of paying the tax or taxes herein imposed.

(e) The word "person" shall be defined for purposes of this Act as including individuals, firms, joint stock companies, syndicates and corporations.

(f) The term "retailer" is defined for purposes of this Act as one engaged as a merchant in selling personal property not intended for resale. The word "retail" and forms thereof shall be interpreted in keeping with this definition.

(g) The term "jobber" is defined for purposes of this Act as one not a manufacturer who sells personal property intended for resale.

(h) The term "manufacturer" is defined for purposes of this Act in the usual sense of a person who fabricates or compounds commodities in such way as to add to their value. It includes those who operate as bottlers.

§ 2. (a) A state tax is hereby imposed on the sale or use of commodities enumerated in this section in the amounts specified as follows:

Bottled drink, one cent (1c) for each five cents (5c) or fractional part thereof of the retail selling price.

Syrup, seventy-six cents (76c) a gallon.

(b) There is also hereby levied and shall be assessed and collected on the sale of soft drinks manufactured or sold within the State, which drinks are manufactured without the use of any syrup upon which the tax has previously been paid and which are other than bottled drinks, a tax of one cent (1c) for each five cents (5c) or fractional part thereof of the retail price of such drinks. This tax shall be collected in accordance with rules and regulations promulgated by the Department of Revenue for the purpose of rendering this statute effective; provided that when it is impractical to use stamps and crowns the Department of Revenue may dispense with the use of stamps and crowns and may require the distributor of such drinks to make returns in writing in such form as the Department of Revenue may prescribe and as frequently as the said Department may require. In such event the Department of Revenue may require payment of the tax at the time the return is submitted or, at its discretion, may require the taxpayer to pay all or a part of the tax after the return has been audited and the tax newly assessed by the Department of Revenue. Provided that the tax shall not be deemed in any case to apply to milk, coffee, and/or tea, when dispensed as such and unmixed with other ingredients.

§ 3. The tax imposed herein upon the sale of bottled drinks and for syrups, when sold in bottles, shall be paid by affixing stamps in the manner and at the times herein set forth, according to rules and regulations which may be promulgated by the Department of Revenue to make this Act effective.

§ 4. All syrups shall be stamped within twenty-four hours of the time such syrups are manufactured, packed, or imported into the state, and before the same shall be sold or offered for sale, by affixing to each individual barrel, box, or other container, whether or not enumerated here, an adhesive stamp in such denomination as to show the payment of the tax levied herein. The stamp shall be so affixed that the box, bottle or other container cannot be opened by the ordinary process without breaking or tearing such stamp or cutting or destroying said barrel, box, bottle, or other container, and it shall be so affixed as to require the continued application of steam or water to remove it without opening the said barrel, box, bottle or other container.

§ 5. All bottled drinks manufactured, bottled, or imported for sale in this state, shall be stamped within twenty-four (24) hours of the time such drinks are manufactured, bottled, or imported and before the said drinks are sold or offered for sale, by affixing to each individual bottle either a crown or cap provided by the Department of Revenue for the purpose or an adhesive stamp in such denomination as to denote payment of the tax herein levied. If an adhesive stamp is used, it shall be so affixed that it will be broken when the bottle is opened or unsealed; and it shall be so affixed as to require the continued application of steam or water to remove it without opening the bottle.

§ 6. (a) In the event adhesive stamps shall be attached to individual bottles of soft drinks, no cancellation or obliteration of the stamp shall be required, but tax stamps affixed to containers of syrups to be used at soda fountains, or otherwise for compounding soft drinks, shall be canceled in the following manner, to wit: By the distributor's writing or stamping, or causing to be written or stamped, with ink or indelible pencil across said stamp said distributor's initials or name and the date upon which the stamp was affixed.

(b) Whoever makes use of any adhesive stamps to denote any tax imposed by this Act without canceling such stamp, if required herein, shall be guilty of a misdemeanor, and, if convicted, shall pay a fine of not more than one hundred dollars ($100.00) or be imprisoned for not more than thirty (30) days for each offense.

§ 7. (a) The administration of this Act is vested in the Department of Revenue, which may prescribe forms and promulgate rules and regulations needed for the enforcement of the Act. The Department of Revenue or any representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment and/or inventory of any distributor pertaining to sales made taxable by this Act, to examine witnesses under oath for the purpose of verifying returns made by distributors or for other purposes involving enforcement of this Act, and to examine the books, records, papers, files, equipment and/or inventory of manufacturers, jobbers, retailers, or carriers for the purpose of determining whether the Act is being violated.

(b) The Department of Revenue shall have power to institute legal proceedings for the purpose of ascertaining the amount of tax due and of enforcing the collection thereof with penalties thereon and for the purpose of enjoining the operation of the business of the distributor until said tax is paid.

(c) The Department of Revenue may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalty and interest thereon, as set out herein, have an attachment against the property of the distributor or garnishment of his debtors without the execution of bond, upon filing an affidavit showing the nature of the claim, that it is just, the sum which the Department of Revenue believes the state should recover from the distributor, and any of the grounds upon which an attachment is authorized by the civil code of practice in civil causes.

(d) Any information obtained by the Department of Revenue or any agent or representative thereof, as a result of the reports, investigations or verifications, herein authorized and required to be made, shall be confidential as respecting the business of any distributors and any person divulging such information, except on the order of a court of competent jurisdiction, or to an officer of the Commonwealth entitled to receive the same in his official capacity, shall be fined not exceeding five hundred dollars ($500.00), provided, however, that this provision shall not prevent the Department of Revenue from publishing statistics of tax receipts and volumes of sales in such a manner as not to reveal information concerning the business of any individual distributor.

(e) The Department of Revenue is hereby authorized and directed to prescribe the forms of adhesive stamps and caps or crowns herein required to be used by distributors. The Department shall have adhesive stamps and crowns carrying the design prescribed, prepared for sale to distributors in such a manner as it may deem proper. The adhesive stamps shall be sold at their face value, the crowns or caps shall be provided to distributors at the cost of manufacture plus transportation charges plus stamp tax value.

(f) The methods of breaking packages and the methods of affixing stamps that shall be employed by distributors under the terms of this Act shall be prescribed by the Department of Revenue so as to render effective the enforcement of this Act.

(g) The Department of Revenue shall keep a suitable record of the sale of all stamps and crowns which shall show the dates of sale thereof and the names of the purchasers.

§ 8. Whoever removes, washes, restores, alters, or otherwise prepares an adhesive stamp or crown with intent to use, or cause to be used, after it has already been once used, or whoever knowingly or willfully buys, sells, offers for sale, or gives away such washed, restored or altered stamp or crown, to any person, or knowingly uses the same, or has in his possession any washed, restored or altered stamps or crowns which have been removed from commodities to which they have been previously affixed, or whoever, for the purpose of indicating the payment of any tax herein imposed, uses again any stamp or crown that has theretofore been used, for the purpose of denoting the payment of the tax provided in this Act, or whoever prepares, buys, sells or offers for sale, or knowingly has in his possession any counterfeit stamps or crowns, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment for not more than one (1) year or by both methods.

§ 9. Any person required by this Act to affix the stamps or use official crowns, as provided in this Act, who shall fail properly to affix the stamps or crowns, within the time prescribed by law, shall be required to pay as part of the tax imposed hereunder a penalty of one hundred per cent (100%) of the amount of tax due to be assessed and collected by the Department of Revenue as other taxes are collected. Any commodities in the place of business of any person required by the provisions of this Act to stamp the same shall be *prima facie* evidence that such articles are intended for sale or use in this State.

§ 10. Any manufacturer liable to pay the tax imposed by this section, who has in his inventory commodities made taxable hereunder, may defer payment of the tax to such time as may be approved by the Department of Revenue, not beyond the time of sale, upon making bond in favor of the Commonwealth of Kentucky in an amount equal to the tax on the maximum unstamped inventory (said bond to be approved by the Department of Revenue) to insure the Commonwealth against loss of tax revenue due to the deferring the stamping of the commodities as required hereunder. It is the intent and purpose of this section to render it reasonably possible for manufacturers to stamp the bottles or other containers in which all beverages, the sale of which is taxable hereunder, shall be found in the hands of retailers.

§ 11. No person shall sell, give or lend any stamps or crowns, nor shall any person purchase, accept, receive, or borrow any stamps or crowns from any person; it being the intent hereof, in order to prevent fraud and insure collection of the taxes due, to limit all sales and transfers of such stamps or crowns to the Department of Revenue or its authorized representatives.

§ 12. It is the intent and purpose of this Act to impose the tax levied herein once only upon the sales of the same commodities made taxable hereunder. Any commodity, on account of the sale of which the tax has been paid, shall not occasion payment of a second or other tax regardless of the number of times the commodity may be sold in this State.

§ 13. Every distributor is hereby required to preserve written records of sales made taxable by this Act in such form as the Department of Revenue may prescribe, to keep invoices of commodities purchases, which are taxable hereunder, and to maintain such other records and submit such reports as the Department may require for the enforcement of this Act.

§ 14. No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this Act. The aggrieved taxpayer shall pay under protest the tax as and when required and may at any time within two years from the date of such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in an action at law in any court, state or federal, otherwise having jurisdiction of the parties and subject matter, for the recovery of the tax paid with legal interest thereon from the date of payment. If it is finally determined that said tax or any part thereof was wrongfully collected, for any reason, it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for an amount of such tax so adjudged to have been wrongfully collected together with legal interest thereon. The Treasurer shall pay the same at once out of the General Expenditure Fund of the State in preference to other warrants or claims against the Commonwealth. A separate suit need not be filed for each individual payment made by any taxpayer, but a recovery may be had in one suit for as many payments as may have been made.

§ 15. If commodities, the sale of which is made taxable by this Act, are distributed under such circumstances that the Constitution and laws of the United States or of Kentucky preclude the possibilities of imposing the tax, then such tax shall not apply. In case of sales made into another state, the Department of Revenue may dispense with stamps or crowns or may require stamps on cases or may make appropriate regulations prescribing some other means whereby the tax may not be made payable.

§ 16. Any person who shall violate any of the provisions of this Act for which specific criminal penalty is not herein provided, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars ($500.00) for each offense and said person's license shall be subject to revocation at the discretion of the court. In the event that any such person shall be convicted of a second offense, such offender, in addition to other penalties herein provided, shall forfeit for such time as the Court may determine, the right to purchase any stamps from the Department of Revenue and shall have said person's license revoked for the prescribed period. The penalty involving the revocation of license may be applied also in those instances in which a specific penalty is herein provided; said revocation of its license to be in addition to the specific penalty prescibed in this Act.

§ 17. All revenue derived from the operation of this Act as collected and recorded shall be deposited through the Department of Finance into the State Treasury, and credited to the General Expenditure Fund.

§ 18. The provisions of this Act are severable. If any provision, section, or paragraph thereof, or if the application of any provision, section or paragraph to any class of sales or uses affected by the operation of the Act, should be held unconstitutional or invalid, such decision regarding the provision, section, paragraph, or applicaton shall not affect or impair the remainder of the Act, it being hereby declared the legislative intent to tax separately the sale of each class of property contemplated by any of its provisions.

§ 19. Whereas, the present State revenue does not meet the immediate needs of the maintenance of the State Government, its agencies and subdivisions, an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor. Be it provided, however, that pending preparation of stamps and crowns, the effective date of Section 2 of this Act shall be 1 o'clock A. M., three (3) calendar weeks from the date of the approval of this Act by the Governor.

Ordered that said bills be printed and referred to the Committee on Revenue and Taxation No. 1.

Mr. Scheben moved that the Clerk of this House be directed to have one thousand copies of the Income Tax Bill printed and distributed to the members of this House.

Said motion was agreed to.

Dr. Shields moved that the House do now recess until two o'clock P. M.

Said motion was agreed to.

And then the House recessed.

The hour of two o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

Mr. Brown of the Committee on Revenue and Taxation

No. 1 to which the same had been previously referred, reported bills of the following titles, viz.:

H. B. 59. An Act concerning revenue and taxation and declaring an emergency.

H. B. 43. An Act relating to revenue and taxation and declaring an emergency.

With the expression of opinion that said bills ought to pass.

Said bills were each read at length the first time and ordered to be placed on the Calendar.

Dr. Shields moved that the Session of today be extended indefinitely.

Said motion was agreed to.

Dr. Shields moved that the House hold an open hearing on the Soft Drink Bill on Wednesday, April 29, at eleven o'clock A. M.

Said motion was agreed to.

Dr. Shields moved that when the House adjourn today, it adjourn to meet again on tomorrow at one o'clock P. M.

Said motion was agreed to.

Dr. Shields moved that the House do now resolve itself into a Committee of the Whole House for the purpose of hearing opponents to H. B. 54, known as the Amusement Tax Bill.

Said motion was agreed to.

Thereupon the Speaker vacated the Chair and designated Dr. Shields as Chairman of the Committee of the Whole House.

After a time the Speaker having resumed the Chair, Dr. Shields of the Committee of the Whole House reported that they had heard various opponents of the Amusement Tax Bill and reported progress.

Mr. Hunnicutt moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

TUESDAY, APRIL 28, 1936.

The House was opened with prayer by the Reverend Edward W. Baxter of the Episcopal Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
'oy Conway
Herbert Cook
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau

Eugene Gough
Ben Grogan
Jas. T. Hamilton
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

Mr. Carter moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Dunlap moved that the privilege of the floor be extended to Mr. Allen Lynn.

Said motion was agreed to.

Mr. Carter moved that the privilege of the floor be extended to Mr. Ben W. Jones.

Said motion was agreed to.

Mr. W. T. Baker moved that the privilege of the floor be extended to Judge DeHaven of Shelbyville, Kentucky.

Said motion was agreed to.

Mr. Russell O'Neill moved that the privilege of the floor be extended to Mr. Fred Head of Greenville, Kentucky.

Said motion was agreed to.

Mr. Conway moved that the privilege of the floor be extended to Mr. Jack Hatcher.

Said motion was agreed to.

Mr. Thomas moved that the privilege of the floor be extended to Mr. Earl Rogers of Owingsville, Ky.

Said motion was agreed to.

Mr. Wagner moved that the privilege of the floor be extended to Mr. Tom Logan and Mr. Ed Niewohner.

Said motion was agreed to.

Mr. Steely moved that the privilege of the floor be extended to Mrs. Polsgrove and Miss Travis.

Said motion was agreed to.

Mr. Silvers moved that the privilege of the floor be extended to Mr. John Crolly and Dr. T. C. Ecton.

Said motion was agreed to.

Mr. Nickell moved that the privilege of the floor be extended to Mr. Walter Sebastian.

Said motion was agreed to.

Mr. Farnsley moved that the privilege of the floor be extended to Miss Judith Folk of Nashville, Tenn., Mrs. George Fowler of Frankfort, Kentucky, and Mr. M. O. Davis of Cave City, Kentucky.

Said motion was agreed to.

Mr. W. T. Baker moved that Dr. Shields, who represented the Legislative Council of Kentucky at the recent Interstate Legislative Council, be called upon to make a report to the House.

Said motion was agreed to.

Upon a call of the Counties and Legislative Districts, the following bills were introduced, viz.:

By Mr. McConnell:

H. B. 60. An Act providing for licensing raw fur dealers.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* Whenever used in this Act, unless the context requires otherwise:

(a) "Person" shall mean and include any individual or individuals, partnership, joint stock company, association, fiduciary, or corporation;

(b) "Raw furs" shall mean and include the pelt or fur that has been taken from any animal that is protected in this State by the game and fish laws and such pelt or fur as has not been tanned or put through any process;

(c) "Non-resident dealer" shall mean and include any person not a resident of Kentucky who comes into Kentucky to buy raw furs in any quantity from either wholesale dealers or local raw fur buyers or anyone in this State;

(d) "Wholesale dealer" shall mean and include any person who purchases raw furs from local raw fur buyers in quantities in excess of two thousand dollars ($2,000.00) per annum;

(e) "Local dealer" shall mean and include any person who buys raw furs in any county in the State in quantities in excess of two thousand dollars ($2,000.00) per annum;

(f) "Department" shall mean the Department of Conservation of the Commonwealth of Kentucky;

(g) "Division" shall mean the Division of Game and Fish of the Department of Conservation.

§ 2. An annual license tax on the business of raw fur dealers is hereby imposed at the following rates:

Non-resident raw fur dealers, one hundred and fifty dollars ($150.00) per annum;

Resident wholesale raw fur dealers, twenty-five dollars ($25.00) per annum;

Resident local dealers or buyers, five dollars ($5.00) per annum.

§ 3. It shall be unlawful for any person to buy raw furs in the State of Kentucky before first procuring a license from the Division of Game and Fish whose office is Frankfort, Kentucky.

The Division of Game and Fish may upon application by any person accompanied by a certified or cashier's check in the amount of the proper fee issue a license permitting the licensee to engage in purchasing and/or dealing in raw furs.

§ 4. The Division of Game and Fish shall have the power to promulgate such rules and regulations and prescribe such blanks and forms as may be necessary for the administration of the provisions of this Act including the right to suspend or revoke any license issued hereunder.

§ 5. Any person violating any provision of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifteen dollars ($15.00) nor more than one hundred dollars ($100.00) for each offense or by imprisonment in the county jail not exceeding thirty (30) days or by both such fine and imprisonment.

§ 6. All revenues collected hereunder shall be covered into the State treasury and credited to the Division of Game and Fish.

By Mr. Howard:

H. B. 61. An Act relating to revenue and taxation and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Every person, firm, association, or corporation selling or engaging in the business of selling cosmetics, proprietary and patent medicines, proprietary and patent compounds, antiseptics, and deodorants, perfumes, and other toilet preparations, candy, chewing gum and playing cards, or either of the aforenamed, shall pay to the Commonwealth of Kentucky a specific tax thereon for such cosmetics, proprietary and patent medicines, proprietary and patent compounds, antiseptics and deodorants, perfumes and other toilet preparations at the rate set forth herein.

§ 2a. The rate of tax to be paid upon the sale, gift, exchange, barter, or distribution of cosmetics shall be one cent on each twenty cents, or the fractional part thereof of the retail selling price thereof, but only one sale of the same article shall be used in computing the amount due.

2b. The rate of tax to be paid upon the sale, gift, exchange, barter or distribution of proprietary and patent medicines, proprietary and patent compounds, antiseptics and deodorants shall be one cent on each twenty cents or the fractional part thereof of the retail selling price thereof, but only one sale of the same article shall be used in computing the amount due.

2c. The rate of tax to be paid upon the sale, gift, barter, distribution of chewing gum shall be one cent on each five-cent package thereof, or the fractional part thereof.

2d. The rate of tax to be paid upon the sale, gift, barter, distribution of packaged or boxed candy shall be one cent on each ten cents or fractional part thereof of the retail selling price thereof, but only one sale of said article shall be used in computing the amount due.

2e. The rate of tax to be paid upon the sale, gift, barter, exchange or distribution of all playing cards shall be five cents for each fifty cents or fractional part thereof of the retail selling price thereof, but only one sale of said article shall be used in computing the amount due.

§ 3. The tax hereby imposed shall be paid by the purchase of stamps of such design and denomination as shall be prescribed by the Department of Revenue of the Commonwealth of Kentucky, unless such stamp is already affixed each dealer, distributor, or manufacturer in this state shall affix to each package or article of cosmetics, proprietary and patent medicines, proprietary and patent compounds, antiseptics and deodorants, perfumes, and other toilet preparations, candy, chawing gum and playing cards, the stamps so purchased, which stamp shall be in the amount of the tax imposed upon the retail selling price of such package or article, and when such stamp is so affixed it shall be *prima facie* evidence of the payment of the tax imposed by this act.

§ 4. Any person who shall open any package, article of cosmetics, proprietary and patent medicines, proprietary and patent compounds, antiseptics and deodorants, perfumes and other toilet preparations, candy, chewing gum and playing cards without the stamp required by this act having been affixed to said package or article, or any person who shall open any package or article, or remove any of the contents therefrom without canceling, mutilating or destroying said stamp shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than ten days or both in the discretion of the court.

§ 5. It shall be unlawful for any person within the Commonwealth of Kentucky to sell, offer for sale, display for sale, barter, exchange, give away or have in possession for the purpose of sale any package or article of cosmetics, proprietary and patent medicines, proprietary and patent compounds, antiseptics and deodorants, perfumes, and other toilet preparations, candy, chewing gum and playing cards without there having been first affixed to each individual package or article the stamp required by this act to be affixed thereto, and any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor punishable by a fine of not less than fifty dollars nor more than five hundred dollars, or imprisonment in the county jail for not more than ninety days, or both in the discretion of the court.

§ 6. Any person who shall falsely or fraudulently make, forge, alter or counterfeit any stamp prescribed by the Department of Revenue under the provisions of this act or who shall cause or procure same to be forged, altered or counterfeited, or who shall knowingly and willfully utter, publish, pass or tender as true any false, altered, forged or counterfeited stamp prescribed by the Department of Revenue under the provisions of this act, or who shall knowingly possess any such false, altered, forged or counterfeited stamps, or who shall use more than once any stamp provided for and required by this act for the purpose of evading the tax hereby imposed shall be deemed guilty of a felony and upon conviction thereof shall be imprisoned for a term of not less than one year and not more than ten years in one of the state penitentiaries.

§ 7. The Department of Revenue of the Commonwealth of Kentucky shall administer the provisions of this act, and shall enforce the payment of the tax imposed herein, and the Sheriffs of the respective counties of this Commonwealth are hereby designated as the agents of said Department in the sale of said stamps and the collection of the stamps evidenced thereby, and the Department of Revenue shall design and manufacture said stamps, and shall forward to each of the Sheriffs of the counties of this Commonwealth prior to the date this act becomes effective as provided herein the number of stamps in various denominations which said Department of Revenue anticipates to be the required number and amount of stamps for one month in each of the respective counties of this Commonwealth, and thereafter the said Sheriffs shall requisition from the Department of Revenue the number and denomination of the stamps required for use in said county for each succeeding month, and said requisition shall be made on or before the twentieth day of each calendar month, and said Sheriffs shall be charged by an account for same by the Department of Revenue for the total amount of tax represented by said stamps less his commission as herein provided for. The Sheriffs on the first day of each month shall forward to the Department of Revenue his check payable to the Treasurer of the Commonwealth of Kentucky for the amount of the tax evidenced by the number of stamps sold for the preceding month less his commission as hereinafter allowed. The Sheriffs shall keep an entire record of the sales of said stamps, the date of said sale, to whom they are sold, and the address of the purchasers thereof, and said records shall be kept in a regular book hereafter provided for.

§ 8. The Department of Revenue shall furnish the Sheriffs of the respective counties the requisition blanks for said stamps, same to be prepared by the Department in the manner and form as it may determine to be proper, and shall furnish each of the Sheriffs therewith a loose leaf ledger which shall be so arranged as to permit the entry thereon of the number of stamps sold, the denomination thereof, the amount of tax evidenced thereby, the name and address of the purchaser thereof, and the date of the purchase of said sale, and the sheets of said ledger shall be in triplicate and shall be different colors, and one copy of the sheets of said ledger showing the sales of the previous month shall be forwarded to the Department of Revenue together with the check in payment of said tax evidenced by said stamps so sold; the second copy of said ledger sheets shall be forwarded to the Treasurer of the Commonwealth of Kentucky on or before the first day of each month; and the third copy thereof shall be retained by the Sheriffs as a public record.

§ 9. The Department of Revenue shall have printed by the printer of the Commonwealth of Kentucky such blank forms as may be by them deemed necessary for the efficient administration of this act, and said Department of Revenue is further hereby authorized to employ and contract with any engraving firm or printer for the design of the printing or engraving of the stamps in such manner and denominations as may be required for the administering of the enforcement of the provisions of this act, and the expenses thereof shall be paid out of the funds of the Commonwealth as any other claim against the Commonwealth.

§ 10. The Sheriffs of the respective counties of this Commonwealth are hereby allowed as compensation for the sale of said stamps, the making out of said reports, the collection of said monies, and the accounting therefor to the Department of Revenue two per cent. (2%) of the amount of money so collected by the sale of said stamps, but in the event such compensation hereby allowed shall cause the salary of each of said Sheriffs to exceed the constitutional limit of five thousand dollars then that part of same shall be paid by said Sheriffs to the Treasurer of the Commonwealth of Kentucky.

§ 11. All money derived from the collection of said tax hereby imposed shall be deposited in the State Treasury and credited to the general fund, and shall be available for any purpose for which said general fund is made available by law.

§ 12. Whenever the Department of Revenue or its employees of any peace officer of this Commonwealth shall discover any package or article of cosmetics, proprietary and patent medicines, proprietary and patent compounds, antiseptics and deodorants, perfumes and other toilet articles, candy and chewing gum, playing cards, subject to the tax as provided by this act and upon which the tax has not been paid and the stamp affixed thereto as herein required, said Department, its employees, or peace officer of this Commonwealth are hereby authorized and empowered to forthwith seize, and take possession of, said package or packages, article or articles, which shall thereupon be deemed to be forfeited to the Commonwealth of Kentucky, and shall be delivered by said Department, its employees, or peace officer to the Circuit Court Clerk of the respective county in which said package or packages, article or articles, are discovered, and the said Circuit Court Clerk shall within ten days thereafter by a notice posted upon the Court House door sell such forfeited package, or packages, article or articles, and the proceeds derived from such sale shall be deemed to be payment to the state of the taxes due and the cost incurred in the collection thereof. It is provided, however, that any person owning said package or packages, article or articles, so seized, may redeem same within ten days of the seizure thereof by the payment of the tax due thereon plus the cost of such seizure and penalty of twenty per cent of the amount of tax due thereon. Any peace officer of this Commonwealth so discovering said package or packages, article or articles, without the tax thereon having been paid or the stamp affixed thereto, as required by the provisions of this Act, shall be allowed said penalty herein above provided for his services rendered therein, but no member of said Department of Revenue nor any employee thereof shall receive any additional compensation to their salary for their services in such seizure. Monies received or collected under the provisions of this section of this act other than the compensation for said peace officer shall be deposited in the State Treasury and credited to the general fund.

§ 13. The Department of Revenue or its employees are hereby authorized and empowered to examine books, papers and records of any dealer, distributor or manufacturer in this state for the purpose of determining whether the tax as imposed by this act has been fully paid either by him or any dealer, distributor or manufacturer, purchasing from them or either of them and shall have the power to investigate and examine the stock of goods on any premises where any of such package or packages, article or articles, as described in this act are possessed or stored, for the purpose of determining whether the provisions of this act are being fully obeyed.

§ 14. The provisions of this act are severable and if any part, section, or sentence thereof shall he held unconstitutional or invalid, the same shall not affect the validity of any remaining portion of this act.

§ 15. As used in this Act:

(a) The word "person" shall be construed to mean and include persons, firms, associations and corporations;

(b) The word "distributor" shall be construed to mean and include every person who engages in the business of receiving or shipping any package or packages, article or articles, as described in this act, and making the original sale or gift thereof in this state;

(c) The word "manufacturer" shall be construed to mean and include every person who engages in the business of manufacturing or producing any of such package or packages, article or articles, as described in this act;

(d) The word "dealer" shall be construed to mean and include every person other than a distributor or manufacturer who sells, offers for sale or engages in the business of distributing or selling any of such package or packages, article or articles, as described in this act;

(e) The word "sale" shall be construed to mean and include gift, exchange, barter, offer for sale and distribution;

(f) The word "cosmetics" shall be construed to mean any preparation now manufactured or hereafter manufactured, sold or distributed for use as a facial or body powder, facial lotions and creams, rouge, lipstick, nail polish or coloring, nail polish remover, nail whitener, cuticle cream or oil, hair tonics, hair lotions, hair shampoos, eyebrow and eyelash pencils and coloring, bath salts, shaving creams, dental creams and any and all other preparations which under the definition of the word "cosmetics" as given in Webster's Standard Dictionary may be classed as cosmetics;

(g) The words "proprietary and patent medicines" and "proprietary and patent compounds" shall be construed to mean any preparation now manufactured, produced or mixed or which may hereafter be manufactured, sold or distributed and on which a patent has been issued or applied for, or the name thereof has been copyrighted or the copyright thereon applied for, or which has been trademarked or the trademark thereon applied for under the laws of the United States of America or which are manufactured, produced, mixed, sold or distributed, and which may be purchased in the factory wrapped package or which may be purchased without a prescription therefor regularly issued by a doctor of medicine or dentistry.

§ 16. Whereas, the income from revenue measures of the State of Kentucky is not sufficient to balance the budget of the Comonwealth of Kentucky, and the raising of additional money immediately is necessary to carry on the functions of government, an emergency is hereby declared to exist, and this measure shall become effective upon its passage and approval by the Governor of the Commonwealth of Kentucky.

By Mr. Clay:

H. B. 62. An Act relating to revenue and taxation of pin machines, repealing inconsistent sections, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* Whenever used in this Act, unless the context requires otherwise:

a. ''Person'' shall mean and include individuals, partnerships, associations, joint stock companies, and corporations.

b. ''Department'' shall mean Department of Revenue of the Commonwealth of Kentucky.

c. ''Pin machine'' shall mean and include any machine or contrivance which releases balls or other objects subject to the control of the machine or contrivance, upon the insertion of a coin, token, disk, or other thing; the play of which machine or contrivance is in some measure dependent upon the skill of the player.

d. The words ''dealer'' or ''owner'' shall mean and include any person engaged in the business of buying, selling, exchanging, leasing, renting, hiring or placing for use any pin machine within the meaning of this Act.

§ 2. An annual license is imposed on each pin machine to be paid by the dealer or owner as hereinafter specified at the following rates:

a. Pin machines in first and second class cities:

(1) Five cent (5c) machines, twenty-five dollars ($25.00).

(2) Ten cent (10c) machines, thirty-five dollars ($35.00).

(3) Twenty-five cent (25c) machines, fifty dollars ($50.00)

b. Pin machines in all other places:

(1) Five cent (5c) machines, ten dollars ($10.00).

(2) Ten cent (10c) machines, twenty dollars ($20.00).

(3) Twenty-five cent (25c) machines, fifty dollars ($50.00).

§ 3. The licenses hereinafter provided for, unless previously revoked shall expire on June 30th of each year.

§ 4. The administration of this act is vested in the Department of Revenue which shall have full power to revoke the license tax hereinafter provided for, to prosecute through the Attorney General or any lawyer authorized by the Attorney General and/or the Department, any violation thereof and to provide such forms, blanks, licenses, and other papers as it may deem necessary, to promulgate such rules and regulations as it may deem necessary, for the enforcement of the provisions of this Act, to require information from any person relative to the licensing of such machines or to investigate violations of the provisions of this Act, either by examination of statement under oath and/or examination of any files, records, papers, and equipment relative to such licensing or violation, and/or other powers reasonably necessary to the enforcement of the provisions of this Act.

§ 5. Every dealer or owner of pin machines shall make application for license for each machine to the Department of Revenue upon the forms prescribed by it and shall furnish to the Department such additional information as it may require and, in the discretion of the Department a license may be issued.

§ 6. The Department shall have the power to determine upon the basis of information furnished to or secured by it, whether any machine shall be classed as a pin machine.

§ 7. a. It shall be unlawful for any person to buy, sell, exchange, lease, let, hire, or place for use any pin machine except it be so licensed as prescribed herein.

b. It shall be unlawful for any person to permit to be operated in or on his premises or to have in his possession any pin machine except it be so licensed.

c. Each unlicensed machine held or possessed in violation of subsection "a" and/or "b" of this Section shall constitute a separate offense.

d. Any person violating any provision of this Section shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100.00) nor more than two thousand dollars ($2,000.00) or by imprisnoment in the county jail for not less than six (6) months nor more than one (1) year or by both such fine and imprisonment. Provided, that in the case such violator be other than a natural person, a principal officer and/or officers responsible for such violation may be so imprisoned. And in addition, such machine shall be immediately confiscated.

§ 8. Any law or portions of a law which are inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

§ 9. All revenue derived from the operation of this Act shall, as collected, be covered into the State Treasury and credited to the General Expenditure Fund.

§ 10. Whereas, the present state revenue does not meet the immediate needs for the maintenance of the state government and its agencies, an emergency is declared to exist and this Act shall become a law upon its passage and approval by the Governor.

The license tax hereinabove imposed shall be first collected for the fiscal year begining June 30, 1936.

Ordered that said bills be printed and referred to the Committee on Revenue and Taxation No. 1.

Dr. Shields moved that a bill entitled:

H. B. 54. An Act concerning revenue and taxation and declaring an emergency.

Be recommitted to the Committee on Revenue and Taxation No. 1 and when reported shall retain its place in the Orders of the Day.

Said motion was agreed to.

Thereupon said bill was recommitted to the Committee on Revenue and Taxation No. 1.

Dr. Shields moved that the House do now recess until the hour of two–forty-five o'clock P. M.

Said motion was agreed to.

And then the House recessed.

The hour of two–forty-five o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

Dr. Shields moved that the Rules of this House be suspended for the purpose of allowing the Committee on Revenue and Taxation No. 1 to report.

Said motion was agreed to.

Thereupon Mr. Brown of the Committee on Revenue and Taxation No. 1, to which the same had been recommitted, reported a bill entitled:

H. B. 54. An Act relating to revenue and taxation and declaring an emergency.

With Committee amendments thereto.

Dr. Shields moved that the House do now take up said bill for immediate consideration.

Said motion was agreed to.

Thereupon the House took up for immediate consideration said bill.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* (a) ''Places of amusement and/or entertainment'' shall mean and include all theatres, ball parks, and stadia, lecture halls, dance halls, night clubs, skating rinks, public bathing places, and all places of other sorts, whether like the above mentioned or not, at which businesses providing amusements and/or entertainments for which a charge is made, are operated, but shall not mean nor include race tracks subject to the supervision of the Kentucky Racing Commission.

(b) The term ''sale'' shall mean and include the transfer or exchange for valuable consideration of services of all classes and kinds.

(c) The word ''person'' shall mean and include individuals, firms, joint stock companies, syndicates and corporations.

(d) ''Professional entertainers'' shall mean and include any person or persons who receive pay in money or money's worth for their performances.

(e) ''Proprietor'' shall mean and include any person who owns, operates, or manages a place of amusement and/or entertainment.

(f) ''Department'' shall mean and include the Department of Revenue of Kentucky.

§ 2. A tax is hereby imposed on the sale of admission to places of amusement and/or entertainment at the rate of one cent (1c) in each ten cents (10c) or fractional part thereof of the admission charged. If a cover charge is made the tax shall be one cent (1c) in each ten cents (10c) or fractional part thereof of the said cover charge.

In the case of places of amusement and/or entertainment at which food is served and professional entertainers are employed and no separate charge is made for such amusement and/or entertainment twenty-five per cent (25%) of the total charge made shall be deemed to be the charge for amusement and/or entertainment, and this amount shall be subject to the tax at the rate of one cent (1c) in each ten cents (10c) or fractional part thereof. The proprietor o feach place of amusement and/or entertainment subject to the provisions of this paragraph shall make return on or before the tenth (10th) day of each month on such forms as the Department may prescribe setting out the gross receipts from his place of business the amount which by this paragraph is deemed to be the charge for amusement and/or entertainment and such additional information as the Department may require, and shall accompany such return with a certified or cashier's check for the amount of tax due hereunder.

Nothing in this Act shall be construed so as to impose a tax upon admissions to athletic contests, plays, and other forms of amusement and/or entertainment, the proceeds of which admissions are to be used exclusively for charitable, religious, or educational purposes within this State.

§ 3. (a) The administration of this Act is vested in the Department of Revenue which may prescribe forms and promulgate rules and regulations needed for the enforcement of the Act. The Department or any representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment and/or inventory of any person or persons pertaining to services made taxable by this Act, to examine witnesses under oath for the purpose of verifying returns made by persons or for other purposes involving enforcement of this Act, and to examine the books, records, papers, files, equipment and/or inventory of other persons for the purpose of determining whether the Act is being violated.

(b) The Department shall have power to institute legal proceedings for the purpose of ascertaining the amount of tax due and of enforcing the collection thereof with penalties thereon and for the purpose of enjoining the operation of the business of the proprietor until said tax is paid.

(c) The Department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalty and interest thereon as set out herein, have an attachment against the property of the proprietor or garnishment of his debtors, without the execution of bond, upon filing an affidavit showing the nature of the claim, that it is just, the sum which the Department believes the State should recover from the proprietor, and any of the grounds upon which an attachment is authorized by the civil code of practice in civil causes.

(d) Any information obtained by the Department or any agent or representative thereof, as a result of the reports, investigations or verifications herein authorized and required to be made, shall be confidential as respecting the business of any person, and any person divulging such information, except on the order of a court of competent jurisdiction, or to an officer of the Commonwealth entitled to receive the same in his official capacity, shall be fined not exceeding five hundred dollars ($500.00), provided, however, that this provision shall not prevent the Department from publishing statistics of tax receipts and volumes of sales in such a manner as not to reveal information concerning the business of any individual.

(e) The Department is hereby authorized and directed to prescribe the forms of adhesive stamps and officially stamped admission tickets. The Department shall have adhesive stamps and officially stamped admission tickets carrying the design prescribed,. prepared for sale to persons in such a manner as it may deem proper. The adhesive stamps and officially stamped admission tickets shall be sold at their face value.

(f) The Department shall keep a suitable record of the sale of all officially stamped admission tickets which shall show the dates of sale thereof and the names of the purchasers.

§ 4. (a) The officially stamped admission tickets shall serve as stamps for the purpose of evidencing payment of the tax herein imposed on admissions to places of amusement and/or entertainment and shall indicate on the face the charge for admission. These tickets shall be sold by the Department to persons operating places of amusement and/or entertainment; and the Department shall prescribe suitable regulations respecting the manner in which said tickets shall be used in order to conform to the provisions of this Act.

(b) Except for cases in which season tickets are used or in which it is impractical for the Department to furnish appropriate tickets, every person operating a place of amusement and/or entertainment, subject to the provisions of this Act, shall use only such tickets as are distributed by the Department, provided that in the case of season tickets and in other cases in which it is impractical for the Department to require the use of such tickets, the person operating the place of amusement and/or entertainment must place adhesive stamps evidencing payment of the tax on the admission ticket. These stamps shall become firmly attached to the tickets in such a manner as will require the continued application of steam or water for the removal thereof.

(c) Except as otherwise provided by the regulations promulgated by the Department for the enforcement of this Act, as each individual is admitted to places of amusement and/or entertainment, his ticket shall be collected and immediately torn in two parts, approximately through the middle, and one-half given to the patron, the other half being retained. If adhesive stamps are used, as herein provided, the ticket shall be torn in such way as to break the stamp in two parts.

§ 5. Whoever removes, washes, restores, alters, or otherwise prepares an adhesive stamp or officially stamped admission ticket with intent to use or cause to be used, after it had already been once used or whoever knowingly or willfully buys, sells, offers for sale, or gives away such washed, restored, or altered stamp or officially stamped admission ticket, to any person, or knowingly uses the same, or has in his possession any washed, restored, or altered stamps which have been removed from admission tickets, to which they have previously been affixed, or whoever, for the purpose of indicating the payment of any tax herein imposed, uses again any stamp or officially stamped admission ticket that has theretofore been used, for the purpose of denoting the payment of the tax provided in this Act, or whoever prepares, buys, sells or offers for sale, or knowingly has in his possession any counterfeit stamps, is guilty of a felony, and upon conviction, shall be punished by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment for not more than five (5) years, or by both such fine and imprisonment. Provided, however, that if such violator be other than a natural person then the principal officer and/or the officer or officers responsible for such violation may be so imprisoned.

§ 6. Any person required by this Act to affix the stamps or use officially stamped admission tickets as provided in this Act, who shall fail properly to affix the stamps or officially stamped admission tickets within the time prescribed by law, or who shall fail to pay the tax imposed in Section 2, subsection (b) of this Act, shall be required to pay as a part of the tax imposed hereunder, a penalty of one hundred per cent (100%) of the amount of tax due to be assessed and collected by the Department as other taxes herein imposed are collected. Any admission tickets in the place of business of any person required by the provisions of this Act to stamp the same shall be *prima facie* evidence that such articles are intended for sale or use in this State.

§ 7. No person shall sell, give, or lend any stamps, nor shall any person purchase, accept, receive, or borrow any stamps from any person; it being the intent hereof, in order to prevent fraud and insure collection of the taxes due, to limit all sales and transfers of such stamps to the Department or its authorized representative.

§ 8. It is the intent and purpose of this Act to impose the tax levied herein once only upon the sales of the same services made taxable hereunder.

§ 9. No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this Act. The aggrieved taxpayer shall pay under protest the tax as and when required and may at any time within two (2) years from the date of such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in an action at law in any court, state or federal, otherwise having jurisdiction of the parties and subject matter, for the recovery of the tax paid with legal interest thereon from the date of payment. If it is finally determined that said tax or any part thereof was wrongfully collected, for any reason, it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected together with regal interest thereon. The Treasurer shall pay the same at once out of the general expenditure fund of the State in preference to other warrants or claims against the Commonwealth. A separate suit need not be filed for each individual payment made by any taxpayer, but a recovery may be had in one suit for as many payments as may have been made.

§ 10. If services, the sale of which is made taxable by this Act, are distributed under such circumstances that the

Constitution and laws of the United States or of Kentucky preclude the possibilities of imposing the tax, then such tax shall not apply.

§ 11. Any person who shall violate any of the provisions of this Act not hereby made a felony shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars ($500.00) for each offense and said person's license, if any be required by law, shall be subject to revocation at the discretion of the Court.

§ 12. All revenue derived from the operation of this Act as collected and recorded shall be deposited through the Department in the State Treasury and credited to the General Expenditure Fund.

§ 13. The provisions of this Act are severable. If any provision, section, or paragraph thereof, or if the application of any provision, secton or paragraph to any class of sales or uses affected by the operation of the Act, should be held unconstitutional or invalid, such decision regarding the provision, section, paragraph, or application shall not affect or impair the remainder of the Act, it being hereby declared the legislative intent to tax separately the sale of each class of service contemplated by any of its provisions.

§ 14. *Emergency.* Whereas the present State revenue does not meet the immediate needs for the maintenance of the State government, its agencies and subdivisions, an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor.

Be it provided, however, that pending preparation of stamps and completion of other administrative plans, the effective date of this Act shall be one o'clock A. M., of the date three (3) calendar weeks after this measure is approved by the Governor.

Said amendments as offered by the Committee are as follows, viz.:

1. Amend H. B. 54, Section 2, lines 6 and 25 inclusive, page 2 of the printed bill, by striking out lines 6 to 25 inclusive and inserting in lieu thereof the following:

"In case of places of amusement and/or entertainment at which food or drink is served and professional entertainers are employed, the charge for admission shall be deemed to be twenty-five per cent (25%) of the total charge made or the amount of the cover charge, if any, whichever is greater.

"In the case of all amusements and/or entertainments, the charge for admission shall be deemed to be the total charge imposed and if there is a charge for seating, or for special facilities within the place of amusement and/or entertainment, the charge for admission shall deemed to include both the charge for general admission and the charge for the special seating or other facilities provided in the places of amusement and/or entertainment.

"Nothing in this Act shall be construed to impose a tax upon admissions to athletic contests, plays, and other forms of amusement and/or entertainment, at least seventy-five per cent (75%) of the gross proceeds of which admissions are to be used exclusively for charitable, religious and/or educational purposes within this State.

"(a) The proprietor of each place of amusement and/or entertainment subject to the provisions of this Act shall on or before the tenth (10th) day of each month make return to the Department on such forms as it may prescribe, setting out the total gross receipts from the place of business, the amount thereof which has been paid as a separate charge for admission, the amount thereof which has been paid for food and/or drink, the number of admissions of each class which have been sold by the said place of amusement and/or entertainment and such additional information as the Department may require and shall accompany such return with a certified or cashier's check for the amount of tax due hereunder.

"(b) Every person vending theater or other admission tickets to places of amusement and/or entertainment whose business is subject to tax hereunder shall be required before engaging in such business to procure from the Department of Revenue a permit to engage in such business, and the Department may condition such permit on continual conformity with this Act and the rules and regulations issued hereunder.

"Every place of amusement and/or entertainment taxable under this Act, not heretofore specifically required under the Statutes of the Commonwealth to be licensed shall procure from the Department of Revenue a permit before engaging in any of the businesses made taxable hereunder.

"To assure conformity with the provisions of this Act, the Department is hereby authorized and required to allot to each place of amusement and/or entertainment using admission tickets a serial number or serial numbers by means of which the Department may check on the number and price class of admissions to all such places of amusement and/or entertainment. The supervision by the Department to enforce the provisions hereof are hereby authorized to be made effective through control over the vending of tickets to said places of amusement and/or entertainment."

2. Amend H. B. 54, Section 3, subsection (e), lines 36 to 41 inclusive, page 4 of the printed bill, by striking out all of subsection (e) and inserting in lieu thereof the following:

"(e) Every place of amusement and/or entertainment whose business is taxable under the terms of this Act is hereby required to make bond conditioned on the faithful compliance with the terms of this Act with a surety satisfactory to the Department of Revenue. In the event the Department believes that administration can be rendered more effective or in the event the owner of the place of amusement and/or entertainment is unwilling or unable to make bond, the Department is hereby authorized to cause to be prepared adhesive stamps and/or officially stamped admission tickets which shall be sold to owners of places or amusement and/or entertainment in advance, the said owner to pay the Department the tax value of such tickets plus the costs of preparing and delivering to the said owner the said adhesive stamps and/or officially stamped admission tickets.''

3. Amend H. B. 54, Section 4, subsection (b), lines 9 to 19 inclusive, on pages 4 and 5 of the printed bill, by striking out all of subsection (b) and inserting in lieu thereof, the following:

''(b) No person operating a place of amusement and/or entertainment except a person bonded under the provisions hereof shall use any admission tickets except such as are distributed by the Department; provided, however, that in the case of season tickets and in other cases in which it is impractical for the Department to require the use of such admission tickets, the person operating the place of amusement and/or entertainment shall place adhesive stamps evidencing the payment of the tax on the said admission ticket. These stamps shall be firmly attached to the tickets in such manner that they cannot be readily removed therefrom.''

4. Amend H. B. 54, lines 1 to 5 inclusive, of Section 2, by striking therefrom the said lines and inserting in lieu thereof the following language:

''An excise tax is hereby imposed on the sale of admission to places of amusement and/or entertainment at the following rate:

''If the admission charge is eleven cents (11c) to eighteen cents (18c) inclusive, the rate shall be one cent (1c); if the admission charge is nineteen cents (19c) to twenty-eight cents (28c) inclusive, the rate shall be two cents (2c); if the admission charge is twenty-nine cents (29c) to thirty-eight cents (38c) inclusive, the rate shall be three cents (3c) plus one cent (1c) additional for each five cents (5c) or fractional part thereof. Provided that admission charges of less than eleven cents (11c) shall not be subject to tax hereunder."

Amendments Nos. 1, 2 and 3 as offered by the Committee were then agreed to.

Mr. Ward offered the following amendment to Amendment No. 4 as offered by the Committee, viz.:

Amend Amendment No. 4 as offered by the Committee on Revenue and Taxation No. 1 by striking out all the words and figures of the amendment and substituting therefor the following:

"Section 2. A tax is hereby imposed on the sale of admission to places of amusement and/or entertainment at the rate of one cent (1c) on each admission fee of forty cents (40c) or less, and on admission fees of more than forty cents (40c) a tax is hereby imposed at the rate of ten per cent (10%) of the total of said admission fee or fractional part thereof; provided, however, that no tax shall be imposed on an admission fee of children under twelve (12) years of age, where said admission fee is ten cents (10c) or less."

Said amendment to the Amendment No. 4 was then disagreed to.

The yeas and nays being required thereon by Messrs. Ward and Wells, were as follows, viz.:

Those who voted in the affirmative were—

B. F. Bedford
Ollie J. Bowen
Dr. R. A. Byers
Jas. C. Carter
George S. Clay
J. A. Coleman
Harry Davis
Garland Embry
James Garnett, Jr.
Eugene Gough
Ben Grogan
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
Duke Mayfield

G. S. Milam
W. H. Miller
John B. Mollett
Tyler Munford
Russell O'Neill
Hobart Rayburn
Ray O. Shehan
P. L. Sidebottom
H. C. Steely
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

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Those who voted in the negative were—

F. T. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
Douglas Bolling
Wallace Brown
V. O. Chandler
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Chas. P. Farnsley
T. P. Fitzpatrick
G. W. Garrett
Jas. T. Hamilton
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
J. L. McDermott
W. F. McGary
Elmer McGlothen
W. E. Mull
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Dr. B. F. Shields
Bruce Sloan
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall

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Said amendment as offered by the Committee was then agreed to.

Mr. Garnett offered the following amendment to said bill, viz.:

Amend H. B. 54 by adding the following words and figures to Section 2, page 2 of the printed bill:

"Provided, however, that nothing in this Act shall be construed as placing a tax upon admissions to athletic contests, unless the price charged for said admission to said athletic contests shall exceed the sum of fifty cents (50c) in which case the first fifty cents (50c) of such admission shall be exempt from the tax levied under this Act."

Said amendment was agreed to.

The yeas and nays being required thereon by Messrs. McGlothen and Dever, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
B. F. Bedford
Ollie J. Bowen
Jas. C. Carter
V. O. Chandler
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Harry Davis
Stanley S. Dickson
George W. Dunlap
Chas. P. Farnsley
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
W. L. Hampton, Jr.
Thomas W. Hines
Ira W. Hulette
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
M. T. McCarthy
J. L. McDermott
Lloyd MacDonald
D. T. Matlack
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
W. T. Rollo
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
L. R. Wells
W. G. Williams

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Those who voted in the negative were—

Douglas Bolling
Wallace Brown
Dr. R. A. Byers
Sam Dever
Howard G. Early
Garland Embry
T. P. Fitzpatrick
John M. Hunnicut
Robert E. Lee

T. B. McConnell
Elmer McGlothen
J. C. Ramey
Joe E. Robinson
John C. Robinson
Carl Scheben
P. L. Sidebottom
Dr. H. S. Swope
Joseph L. Wall
Henry Ward
Charles Wylie
—20

Mr. Myers moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Douglas Bolling
Wallace Brown
Dr. R. A. Byers
V. O. Chandler
Roscoe Claxon
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Chas. P. Farnsley
T. P. Fitzpatrick
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Ben Grogan
Jas. T. Hamilton
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
J. L. McDermott
W. F. McGary

Elmer McGlothen
C. S. Matherly
D. T. Matlack
W. E. Mull
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
L. R. Wells
W. G. Williams
John Kirtley, Spkr.

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Those who voted in the negative were—

Jas. C. Carter
George S. Clay
J. A. Coleman
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
G. S. Milam
W. H. Miller
John B. Mollett
Tyler Munford
Russell O'Neill
Hobart Rayburn
Ray O. Shehan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
Henry Ward
Charles Wylie

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Resolved that the title thereof be as aforesaid.

Mr. Scheben moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, bills of the following titles, viz.:

H. B. 29. An Act relating to revenue and taxation and declaring an emergency.

H. B. 46. An Act relating to revenue and taxation and declaring an emergency.

Thereupon all other business was suspended, said bills were read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bills to the Senate.

After a time the Enrolling Clerk delivered the original and enrolled copies of said bills duly signed by the President of the Senate, into the possession of the Chief Clerk of the House.

Ordered that the Chief Clerk deliver said bills to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

Dr. Shields moved that the Rules of this House be suspended for the purpose of reading the Calendar.

Thereupon the House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 43. An Act relating to revenue and taxation and repealing, amending and re-enacting certain paragraphs of subdivision 4, Article 12, Chapter 22, page 88 of the Acts of the General Assembly of 1906 as amended by Chapter 158, page 678 of the Acts of the General Assembly of 1920, now codified as certain paragraphs in Section 4224, Carroll's Kentucky Statutes, 1930 Edition, and declaring an emergency.

H. B. 59. An Act relating to revenue and taxation and declaring an emergency.

Ordered that said bills be read the second time.

The Constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

Mr. Wells moved that Miss Judith Folk of Nashville, Tennessee, be made an Aid-de-Camp on the staff of the House of Representatives with the rank and grade of Colonel.

Said motion was agreed to.

Dr. Shields moved that the rules of this House be suspended for the purpose of introducnig bills.

Said motion was agreed to.

Thereupon the following bills were introduced, viz.:

By Mr. Conway:

H. B. 63. An Act relating to revenue and taxation of certain motor fuels and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* Whenever used in this Act, unless the context requires otherwise,

(a) "Motor vehicles" shall mean and include all vehicles, engines, machines or mechanical contrivances which are propelled by internal combustion engines or motors;

(b) "Fuels" shall mean and inslude all combustible gases and liquids used in an internal combustion engine for the generation of power to propel vehicles of any kind or character on the public highways except such fuels as are subject to the tax imposed by House Bill No. 41, Special Revenue Session of 1936;

(c) "Public Highways" shall mean and include every way or place, of whatever nature, generally open to the use of the public as a matter of right for the purposes of vehicular travel and notwithstanding that the same may be temporarily closed for the purpose of construction, reconstruction, maintenace or repair;

(d) "Person" shall mean and include any individual, association, firm, co-partnership, corporation, receiver, trustee, conservator or other officer appointed by any State or Federal Court;

(e) "Use" shall mean and include, in addition to its original meaning, the receipt of fuel by any person into a motor vehicle or into a receptacle from which fuel is supplied by such person to his own or other motor vehicles;

(f) "User" shall mean any person who uses and/or consumes fuel within this State in an internal combustion engine for the generation of power to propel vehicles of any kind or character on the public highways of this State;

(g) "Duly licensed user" shall mean and include any user holding an unrevoked license issued by this State;

(h) "Department" shall mean the Department of Revenue of the Commonwealth of Kentucky.

§ 2. *Levy of tax and exemptions.* An excise tax of five cents (5c) per gallon is hereby imposed on the use of such fuel by any person within this State only when such fuel is used in an internal combustion engine for the generation of power to propel motor vehicles of any kind or character on the public highways of Kentucky to be computed in the manner hereinafter in this Act set forth and paid by the users.

Provided, however, that no tax is hereby impoed on the use of any fuel if the Constitution of the United States or of this State precludes such tax.

§ 3. *Allocation of tax.* All taxes collected under the provisions of Section 2 of this Act shall be covered into the State treasury and shall be used only to defray the expenses of the administration of this Act and for the purpose of construction, reconstruction, maintenance and repair of roads, highways and bridges.

§ 4. *Application for license: Contents: Licensing of users.*

A. It shall be unlawful for any user to use or consume any fuel within this State unless such user is the holder of an uncanceled license issued by the Department. To procure such license, every user shall file with the Department an application under oath and in such form as the Department may prescribe setting forth the name and address of the user.

B. Concurrently with the filing of an application for a license, every user shall file with the Department a bond of the character stipulated and in the amount provided for in Section 5 of this Act. No license shall be issued upon any application unless accompanied by such a bond.

C. In the event that—

(1) Any application for a license to use fuel as a user in this State shall be filed by any person whose license shall at any time theretofore have been canceled for cause by the Department, or in case

(2) Said Department shall be of the opinion that such application is not filed in good faith or that

(3) Such application is filed by some person as a subterfuge for the real person in interest whose license or registration shall theretofore have been canceled for cause by said Department,

Then and in any of said events the Department after a hearing of which the applicant shall have been given five (5) days notice in writing and in which said applicant shall have the right to appear in person or by counsel and present testimony, shall have and is hereby given the right and authority to refuse to issue to said person a license certificate in this State.

D. Upon the filing of the application for a license, a filing fee of One Dollar ($1.00) shall be paid to the Department.

E. The Application in proper form having been accepted for filing, the bond having been accepted and approved and the other conditions and requirements of this section having been complied with, the Department shall issue to such user a license certificate and such license shall remain in full force and effect until canceled as provided in this Act.

F. The license certificate so issued by the Department shall not be assignable and shall be valid only for the user in whose name issued and shall be displayed conspicuously by the user.

G. The Department shall keep and file all applications and bonds with an alphabetical index thereof, together with a record of all licensed users.

§ 5. *Bond required of licensed users.*

A. Every user shall file with the Department a bond—

(1) In the minimum amount of $100 and maximum amount of $10,000 on a form to be approved by the Department and

(2) With surety approved by the Department as surety thereon and

(3) Upon which such user shall be the principal obligor and this State shall be the obligee,

(4) Conditioned upon the prompt filing of true reports and the payment by such user to the Department of any and all fuel excise taxes which are now or which are hereafter levied or imposed by this State, together with any and all penalties and/or interest thereon and generally upon faithful compliance with the provisions of this Act.

B. In the event that the liability upon the bond thus filed by the user with the Department shall be discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if in the opinion of the Department any surety on the bond theretofore given shall have become unsatisfactory or unacceptable, then the Department may require the user to file a new bond with satisfactory sureties in the same form and amount, failing which the Department shall forthwith cancel the license certificate of said user. If such new bond shall be furnished by such user as above provided, the Department shall cancel and surrender the bond of said user for which such new bond shall be substituted.

C. In the event that upon hearing, of which the user shall be given five (5) days' notice in writing, the Department shall decide that the amount of the existing bond is insufficient to insure payment to this State of the amount of the tax and any penalties and interest for which said user is or may at any time become liable, then the user shall forthwith upon the written demand of the Department file an additional bond in the same manner and form with surety thereon approved by the Department in any amount determined by the Department to be necessary to secure at all times the payment by such user to this State of all taxes, penalties, and interest due under the provisions of this Act, failing whch, the Department shall forthwith cancel the license certificate of said user.

D. Any surety on any bond furnished by any user as heretofore provided shall be released and discharged from any and all liability to this State accruing on such bond after the expiration of sixty (60) days from the date upon which such surety shall have lodged with the Department a written request to be released and discharged. Provided, however, that such a request shall not operate to relieve, release or discharge such surety from any liability already accrued or which shall accrue, before the expiration of said sixty (60) day period. The Department shall promptly, on receipt of notice of such request, notify the user to furnish such bond and unless such user shall, on or before the expiration of such sixty (60) day period, file with the Department a new bond with surety satisfactory to the Department in the amount' and form hereinbefore in this section provided, the Department shall forthwith cancel the license of said user. If such new bond shall be furnished by said user as above provided, the Department shall cancel and surrender the bond of said user for which such new bond shall be substituted.

§ 6. *Tax reports; Computation and payment of tax.*

A. For the purpose of determining the amount of tax herein imposed, each user shall, not later than the fifteenth (15th) day of each calendar month, file with the Department on forms prescribed by said Department, monthly reports sworn to by the user which shall include the total number of gallons of fuels used within the State during the next preceding month.

B. The tax at the rate of five cents (5c) per gallon of fuel shall be computed on the number of gallons reported used within the State and shall constitute the amount of fuel tax payable for the next preceding calendar month. Reoprts required in subsection A of this section shall be accompanied by certified or cashier's check, payable to the State Treasurer of Kentucky for the amount of tax due for such preceding calendar month.

§ 7. *Power of department to cancel licenses; Surrender of bond.*

A. If a user shall at any time file a false monthly report of the data or information required of this Act, or shall fail, refuse or neglect to file the monthly report required by this Act or to pay the full amount of the tax as required by this Act, the Department may forthwith cancel the license of said user and notify such user in writing of such cancellation by registered mail to the last known address of such user appearing on the files of the Department.

B. Upon receipt of a written request from any user licensed under this Act to cancel the license issued to such user, the Department shall have the power to cancel such license effective sixty (60) days from the date of such written request, but no such license shall be canceled upon the request of any user until and unless the user shall, prior to the date of such cancellation, have paid to this State all excise taxes payable under the laws of this State, together with any and all penalties, interest and fines accruing under any of the provisions of this Act until and unless the user shall have surrendered to the Department the license certificate theretofore issued to such user. If upon investigation, the Department shall ascertain and find that any person to whom a license has been issued under this Act is no longer engaged in the use of fuel and has not been so engaged for a period of six (6) months, the Department shall have the power to cancel such license by giving such person sixty (60) days notice of such cancellation mailed to the last known address of such person, in which event the license certificate theretofore issued to such person shall be surrendered to the Department.

C. In the event that the license of any user shall be canceled by the Department as hereinbefore in this section provided and in further event that said user shall have paid to this State all excise taxes due and payable by it under this Act, together with any and all penalties accruing under any of the provisions of this Act, then the Department shall cancel and surrender the bond theretofore filed by said used.

§ 8. *Failure to report and pay tax, penalties provided.*

If any user neglects or refuses to make said return, or pay the tax at the time hereinbefore provided, the amount hereof, with an addition of a penalty of twenty per cent (20%) thereof, with interest at the rate of six per cent (6%) per annum from the date when due until paid, shall be paid on an account settled by the Department, as other taxes are paid, settled and collected; and if collected by proceedings in any court, an additional penalty of twenty per cent (20%) shall be collected as is authorized to be collected under Section 4263 of Carroll's Kentucky Statutes, 1930 Edition, as amended by House Bill No. One, First Extraordinary Session of 1936.

The said twenty per cent (20%) penalty thereon and interest due shall be paid into the State treasury as part of the tax, and the additional twenty per cent (20%) penalty collected by suit shall be distributed as provided in Section 4263 of Carroll's Kentucky Statutes, 1930 Edition, as amended by House Bill No. One, First Extraordinary Session of 1936.

§ 9. *Department may estimate fuel used.*

A. Whenever any user shall neglect or refuse to make and file any report for any calendar month as required by this Act, or shall file an incorrect or fraudulent report, the Department shall determine, after an investigation the number of gallons of fuel with respect to which the user has incurred liability under the fuel tax laws of this State, for any particular month or months and assess and collect the amount of taxes and penalties payable by the user under this Act accordingly.

B. In any action or proceeding for the collection of the fuel tax and/or any penalties or interest imposed in connection therewith, an assessment by the Department of the amount of the tax due and/or the interest or penalties due to the State shall constitute *prima facie* evidence of the claim of the State, and the burden of proof shall be upon the user to show the assessment was incorrect and contrary to law.

§ 10. *Reports from carriers transporting fuel.*

A. Every railroad company, every street, suburban or inter-urban railroad company, every pipe line company, every water transportation company, and every common carrier transporting fuel, either in interstate or in intra-state commerce, to points within the State, and every person transporting fuel by whatever manner to a point in this State from any point outside of said State and with the definite knowledge that such fuel is to be used in an internal combustion engine for the generation of power to propel a motor vehicle of any kind or character upon the public highways of this State, shall report under oath to the Department on forms prescribed by said Department of all such deliveries of fuel so made to points within this State.

B. *Such reports—*

(1) Shall cover monthly periods,

(2) Shall be submitted within fifteen (15) days after the close of the month covered by the report,

(3) Shall show the name and address of the person to whom the delivery of such fuel has actually and in fact been made and such other reasonable information deemed necessary by the Department.

§ 11. *Retention of records by users.*

A. Each user shall maintain and keep for a period of two (2) years, such record or records of fuel used within this State by such user, together with invoices, bills of lading, and other pertinent records and papers as may be required by the Department for the administration of this Act.

B. Penalty: Any person willfully violating any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not less than One Dollar ($1.00) and not more than One Thousand Dollars ($1,000.00), and costs of prosecution, or to undergo imprisonment for not more than one year, or both in the discretion of the court.

§ 12. *Powers of the Department of Revenue.*

A. The administration of this Act is vested in the Department of Revenue, which may prescribe forms and promulgate rules and regulations needed for the enforcement of this Act.

B. The Department, through a representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment and/or inventory of any person made liable for any tax under the provisions of this Act; to examine witnesses under oath for purposes appropriate for enforcement of this Act; and to examine the books, records, papers, files, equipment and/or inventory of manufacturers, wholesalers, retailers, or carriers for the purpose of determining whether the Act is being violated.

C. The Department shall have the power to institute legal proceedings by the Attorney General of Kentucky, or any attorney duly authorized by him, for the purpose of ascertaining the amount of tax due and/or enforcing the collection thereof with penalties and interest thereon, and for the purpose of enjoining the operation of the business of the delinquent.

D. The Department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalty and interest thereon, as set out herein, have an attachment against the property of the person liable for tax or garnishment of his debtors without the execution of bond on the filing of an affidavit showing the nature of the claim, that it is just, the sum which the Department believes the Commonwealth should recover, and any of the grounds provided by the Civil Code of Practice for the issuance of an attachment in civil causes.

§ 13. *Information privileged.*

Any information obtained by the Department or any agent or representative thereof as a result of a report, investigation, or verification herein authorized to be made, shall be confidential and any person divulging any such information except upon order of a court of competent jurisdiction or to an officer of the Commonwealth entitled to receive the same in his official capacity shall be fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500.00).

§ 14. *Restraining suits.*

No suit shall be maintained in any court to restrain or delay the collection of the tax herein imposed on any grounds whatever but the aggrieved taxpayer shall pay under protest the tax as and when due and may at any time within two (2) years after such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in any action in any court, State or Federal, otherwise having jurisdiction of the subject matter for the recovery of the tax so paid with legal interest thereon from the date of payment. If it can be finally determined that said tax or any part thereof was wrongfully collected for any reason it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected, together with interest thereon; and the Treasurer shall pay the same at once out of the Road Fund of the State in preference to other warrants or claims against the Commonwealth.

Separate suits need not be filed for each separate payment by any taxpayer but recovery may be had in one for all suits heretofore paid or not barred by the limitation of two (2) years herein imposed.

§ 15. *Penalties for failure to make returns, to pay tax, or to permit examination of records.*

Any person who shall fail, neglect or refuse to make the returns and pay the tax herein prescribed, or shall refuse to permit the Department, its assistants, agents or representatives appointed by it in writing to examine the books, records, papers, files and equipment of such person pertaining to the use of fuel made taxable by this Act, or who makes any incomplete, false or fraudulent return hereunder, or who does, or attempts to do, anything whatever to avoid a full disclosure of the amount or fuel used or to avoid the payment of the whole or any part of the tax or penalties due, or who shall fail to keep and preserve records or make reports as provided in this Act, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000.00), and in the case the offender is an individual, he may be imprisoned in the county jail not exceeding six (6) months, or both so fined and imprisoned. Provided, that in case such violator be other than a natural person then the principal officer and/or the officer or officers responsible for such violation, may be punished by such imprisonment.

§ 16. *Discontinuance as a license user.*

A. Whenever a user ceases to engage in business as a user of fuel within this State it shall be the duty of such user to notify the Department in writing within fifteen (15) days after discontinuance. All taxes penaltes and interest under this Act not yet due and payable under the provisions of this Act shall, together with any and all interest accruing or penalties imposed under this Act, notwithstanding any provisions thereof, become due and payable concurrently with such discontinuance. It shall be the duty of said user to make a report and pay all such taxes, interest and penalties and to surrender to the Department the license certificate theretofore issued to said user by the Department.

B. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall upon conviction thereof be sentenced to pay a fine of not less than fifty dollars ($50.00) nor more than three hundred dollars ($300.00) and costs of the prosecution or to undergo imprisonment for not more than one (1) year or both.

§ 17. *Exchange of information with other states.*

The Department shall, upon request duly received, from the officials to whom are intrusted the enforcement of the fuel tax laws of any other state or the Federal Government, forward to such officials any information which it may have in its possession relative to the manufacturer, receipt, sale, use, transportation and/or shipment by any person of fuel. Provided, however, this section shall not apply unless such state or Federal Government extend to this State a similar privilege.

§ 18. *Separability clause.*

The provisions of this Act are severable, and if any of its provisions or any penalty provided by this Act shall be held unconstitutional, such provision or the particular penalty held to be invalid shall not affect or impair the remainder of the Act or such part of the penalties as are not held to be invalid and the decisions of the courts shall not affect or impair the remaining provisions of this Act or any of the other penalties anywhere in this Act provided. It is hereby declared as a legislative intent that this Act would have been adopted had any unconstitutional provision of such invalid penalties not been included herein.

§ 19. *Emergency.*

Whereas, the present State revenue does not meet the immediate needs for maintenance of the State government an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor.

By Mr. Myers:

H. B. 64. An Act relating to revenue and taxation, repealing, amending and reenacting Section 5 and Section 12 of Chapter twenty-six (26) of the Acts of the Special Session of 1934 of the General Assembly of the Commonwealth of Kentucky, now codified in Baldwin's 1935 Supplement to Carroll's Kentucky Statutes as Section 4202a-17 and Section 4202a-24, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 5 of the above Act is hereby repealed, amended and re-enacted so that when amended, and re-enacted, it shall read as follows:

"Section 5. Every merchant establishing, operating or maintaining one or more stores, stands or places of business within this State, shall pay annually the license fee hereinafter prescribed for the privilege of opening, establishing, operating or maintaining such stores, stands or places of business. The license fees herein prescribed shall be as follows:

(1) On one store the flat sum of two dollars ($2.00);

(2) On chains of more than one, but not more than three stores, the flat sum of fifty dollars $50.00) for each said store;

(3) On chains of more than three, but not more than six stores, the flat sum of one hundred dollars ($100.00) for each said store;

(4) On chains of more than six, but not more than ten stores, the flat sum of two hundred dollars ($200.00) for each said store;

(5) On chains of more than ten, but not more than fifteen stores, the flat sum of four hundred dollars ($400.00) for each said store;

(6) On chains of fifteen, but not more than twenty stores, the flat sum of six hundred dollars ($600.00) for each said store;

(7) On chains of more than twenty stores, the flat sum of eight hundred dollars ($800.00) for each said store."

§ 2. Section 12 of the above Act be hereby repealed, amended and reenacted so that when amended and re-nacted it shall read as follows: "Section 12. The license tax levied herein, shall not be in lieu of any special State license, occupational or corporation license tax under the laws now in force, or that may hereafter be enacted."

§ 3. Whereas, the present State revenues will not meet the immediate needs for the maintenanc and development of the State government and its agencies and the State's credit is threatened, an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor; provided, however, that the provisions hereof shall first be applied for the fiscal year beginning July 1, 1936, and ending June 30, 1937.

Ordered that said bills be printed and referred to the Committee on Revenue and Taxation No. 1.

Mr. Coleman offered the following resolution, viz.:

H. Res. 7. A Joint and Concurrent Resolution providing for the payment of money to Mrs. Dora Evans, mother of C. E. Evans, deceased member of the House of Representatives of the Commonwealth of Kentucky.

Whereas, The Honorable C. E. Evans was a duly elected and qualified member of the General Assembly of the Commonwealth of Kentucky for the full term of the General Assembly beginning in January, One Thousand Nine Hundred Thirty-Six, for a period of two years; and,

Whereas, The said C. E. Evans has been unable to attend this session since April 5, 1936, because of death; and,

Whereas, This being an extraordinary session of the General Assembly during the term of the said C. E. Evans; and,

Whereas, The mother of the said C. E. Evans having been dependent upon him would have received remuneration benefits he had been able to attend: *Now, Therefore,*

Be it Resolved by the House of Representatives of Kentucky, the Senate concurring therein:

That Mrs. Dora Evans, the mother of the said deceased member of the House of Representatives of the Commonwealth of Kentucky, be paid his per diem of $10.00 as a member of the House of Representatives for the entire special session of the One Thousand Nine Hundred Thirty-Six, as though the said C. E. Evans had been personally present at each of said sessions durnig said special session; and,

That the Clerk of the House of Representatives is hereby directed to issue his respective order on the Auditor of Public Accounts of the Commonwealth of Kentucky for the said sum that will be due when the total number of legislative days of the special session shall have been determined, the said orders to be payable to Mrs. Dora Evans, mother of the deceased member, C. E. Evans, and the Auditor of Public Accounts shall issue his warrant on the Treasurer of the Commonwealth for the amount thereof.

Said resolution was adopted.

A message was received from the Senate announcing that they had passed a bill which originated in this House, entitled:

H. B. 20. An Act to repeal subsection (h), Section 17 of Chapter 90 of the Acts of 1920 as amended and re-enacted by subsection (h) of Section 1 of Chapter 78 of the Acts of 1924, being an Act relating to vehicles.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

And that they had passed a bill which originated in this House entitled:

H. B. 37. An Act relating to revenue and taxation for the sale of vinous and spirituous liquors, etc.

With amendments thereto as proposed and adopted by the Senate.

Said amendments are as follows, viz.:

1. Amend H. B. 37 in Senate as follows: Section 1, line

3, page 1 of the printed bill, by striking out the period and inserting in lieu thereof the following language: ", except as hereinafter provided."

2. Amend H. B. 37 in Senate as follows: Section 2, line 11, page 2 of the printed bill, by inserting after the word "containers" and before the word "shall" the following language: "or containers less in size".

3. Amend H. B. 37 in Senate as follows: (1) on page 1, line 6, after the words "two ounces" add the words "or less".

4. Amend H. B. 37 on page 2, line 12, by striking the word "whiskey" and inserting in lieu thereof the word "liquor".

5. Amend H. B. 37 in Senate by inserting after the word "sizes" in line 5 of Section 2 thereof these words, "and shall not be consumed on the premises."

Mr. Brown moved that the Rules of this House be suspended for the purpose of allowing the Committee on Revenue and Taxation No. 1 to report.

Said motion was agreed to.

Thereupon Mr. Brown, of the Committee on Revenue and Taxation No. 1 to which the same had been previously referred, reported bills of the following titles, viz.:

H. B. 44. An Act relating to revenue and taxation of lubricating oil and declaring an emergency.

With Committee amendments thereto.

Mr. Milam moved that said report be laid on the table.

Said motion was disagreed to.

H. B. 62. An Act relating to revenue and taxation and declaring an emergency.

H. B. 61. An Act relating to revenue and taxation.

H. B. 56. An Act to repeal, amend and re-enact Chapter 151 of the Acts of the General Assembly of 1932, etc.

H. B. 60. An Act relating to revenue and taxation and declaring an emergency.

With the expression of opinion that said bills ought to pass.

Said bills were severally read at length the first time and ordered to be placed on the Calendar.

H. B. 17. An Act imposing an excise tax on cement, which is manufactured in or shipped into this State, etc.

With the expression of opinion that said bill ought not to pass.

No further acton having been taken by the House and no motion having been made to advance said bill to a reading, the report of the Committee to the contrary notwithstanding, it was ordered that said bill be not read the first time.

And so said bill was rejected.

Dr. Shields moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

WEDNESDAY, APRIL 29, 1936.

The House was opened with prayer by the Reverend Hampton Adams of the First Christian Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

Mr. Carter moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was disagreed to.

Mr. Myers moved that the vote by which said motion was disagreed to, be reconsidered.

Said motion was agreed to.

The motion as made by Mr. Carter, was then agreed to.

Mr. Howard moved that the privilege of the floor be extended to Mr. J. E. Riney and Mr. J. Bethel.

Said motion was agreed to.

Mr. McConnell moved that the privilege of the floor be extended to Mr. S. J. Glass and Mr. H. O. Brown.

Said motion was agreed to.

Mr. Carter moved that the privilege of the floor be extended to Mr. Walter B. Smith.

Said motion was agreed to.

Mr. Bedford moved that the privilege of the floor be extended to Messrs. John Lair, Sterling Owen and Charlie Robinson.

Said motion was agreed to.

Mr. Hampton moved that Messrs. Bondurant and Saunders of Fulton, Kentucky, be extended the privilege of the floor.

Said motion was agreed to.

Mr. Miller moved that the privilege of the floor be extended to Messrs. Luther House and E. H. Read.

Said motion was agreed to.

Mr. Milam moved that the privilege of the floor be extended to Messrs. D. B. Hodges of Glasgow, Kentucky, and W. Y. Handy of Louisville, Kentucky.

Said motion was agreed to.

Mr. Garnett moved that when the House adjourn today, it adjourn to meet again on tomorrow at eleven o'clock A. M.

Said motion was agreed to.

Mr. Myers moved that a bill entitled:

H. B. 59. An Act relating to revenue and taxation and declaring an emergency.

Be recommitted to the Committee on Revenue and Taxation No. 1 and that said bill when reported, retain its place in the Orders of the Day.

Said motion was agreed to.

Mr. Davis moved that the session of today be extended indefinitely.

Said motion was disagreed to.

Mr. Brown, of the Committee on Revenue and Taxation No. 1 to which same had been previously referred, reported bills of the following titles, viz.:

H. B. 64. An Act relating to revenue and taxation, repealing, amending and re-enacting Sections 5 and 12 of Chapter 25 of the Acts of the Special Session of 1934, etc.

H. B. 36. An Act to raise revenue by requiring peddler truckers to pay fees and charges, to define the term peddler trucker, etc.

H. B. 63. An Act relating to revenue and taxation of certain motor fuels and declaring an emergency.

With the expression of opinion that said bills ought to pass.

Said bills were severally read at length the first time and ordered placed on the Calendar.

Dr. Shields moved that the Rules of this House be suspended for the purpose of taking up for consideration the Orders of the Day.

Said motion was agreed to.

Thereupon the House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 44. An Act relating to revenue and taxation of lubricating oil and declaring an emergency.

With Committee amendments thereto.

H. B. 62. An Act relating to revenue and taxation and declaring an emergency.

H. B. 61. An Act relating to revenue and taxation and declaring an emergency.

H. B. 56. An Act to repeal, amend and re-enact Chapter 151 of the Acts of the General Assembly of 1932, etc.

H. B. 60. An Act relating to revenue and taxation and declaring an emergency.

Ordered that said bills be read the second time.

The constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 43. An Act relating to revenue and taxation and repealing, amending and re-enacting certain paragraphs of subdivision 4, Article 12, Chapter 22, page 88, of the Acts of the General Assembly of 1906 as amended by Chapter 158, page 678, of the Acts of the General Assembly of 1920, now codified as certain paragraphs in Section 4224, Carroll's Kentucky Statutes, 1930 Edition, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That the paragraphs reading,

"*Brokers and Commission Merchants.* On each corporation, individual or firm, except banks and trust companies, whether resident in this state or not, engaged in buying or selling notes, bonds, stocks or other securities, twenty-five dollars,

On each broker or commission merchant, other than a liquor broker, twenty-five dollars."

being certain paragraphs of subdivision 4, Article 12, Chapter 22, page 88, of the Acts of the General Assembly of 1906 as amended by Chapter 158, page 678, of the Acts of the General Assembly of 1920, now codified as certain paragraphs in Section 4224, Carroll's Kentucky Statutes, 1930 Edition, be and the same are hereby repealed, amended and re-enacted so that as re-enacted it shall read:

"*Brokers and Commission Merchants.* Each and every person, firm or corporation, whether acting as principal or agent, who engages in the business of buying notes, contracts of sale, or other obligations, executed for the payment of personal property in Kentucky, shall pay a license tax to the Commonwealth of Kentucky in the sum of five hundred dollars ($500.00) annually, for each county in which such person, firm or corporation conducts or maintains an office."

Mr. Schneider offered the following amendment to said bill, viz.:

Amend H. B. 43, line 15, page 2 of the printed bill, by inserting after the word "corporation" and before the word "whether" the following language: "except banks and trust companies".

Mr. Hammons moved that said amendment be laid on the table.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Hammons and Steeley, were as follows, viz.:

Those who voted in the affirmative were—

Ollie J. Bowen
Dr. R. A. Byers
Jas. C. Carter
George S. Clay
J. A. Coleman
Ben Grogan
C. L. Hammons
Thomas W. Hines
Price Holbrook

J. H. Jones
Leslie Larrimore
D. T. Matlack
John B. Mollett
J. C. Nickell
Russell O'Neill
Harry C. Records
Wade H. Riley
Ray O. Shehan
P. L. Sidebottom
H. C. Steely
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
Joseph L. Wall

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Those who voted in the negative were—

F. T. Allen
W. T. Baker
B. F. Bedford
Douglas Bolling
Wallace Brown
V. O. Chandler
Roscoe Claxon
Roy Conway
Harry Davis
Sam Dever
George W. Dunlap
Howard G. Early
Chas. P. Farnsley
T. P. Fitzpatrick
James Garnett, Jr.
Ferd A. Gnau
Eugene Gough
W. L. Hampton, Jr.
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. F. Ladd
T. B. McConnell
W. F. McGary
Elmer McGlothen
C. S. Matherly
W. E. Mull
Rodes K. Myers
Mel Petry
A. W. Pfeiffer
J. C. Ramey
L. K. Rice
Joe E. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
W. R. Tapp
J. J. Thomas
S. J. Wagner
Henry Ward
L. R. Wells
W. G. Williams

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Said amendment was then agreed to.

Mr. Schneider offered the following amendment to said bill, viz.:

Amend H. B. 43, line 16, page 2 of the printed bill, by inserting after the word ''buying'' and before the word ''notes'' the following language: ''discounting or otherwise acquiring''.

Said amendment was agreed to.

Mr. Schneider offered the following amendment to said bill, viz.:

Amend H. B. 43, page 2, line 20, of the printed bill, by changing the period after the word "office" to a comma and inserting thereafter the words "and/or otherwise engaged in such business".

Mr. Myers offered the following amendment to said amendment, viz.:

Amend the amendment as offered by Mr. Schneider by substituting in lieu thereof the following:

"Amend H. B. 43 by adding after the word "office" the following words: "or in which by agent or otherwise solicits business of the nature herein described".

Said amendment to the amendment was disagreed to.

Said amendment as offered by Mr. Schneider was then disagreed to.

Mr. Ward offered the following amendment to said bill, viz.:

Amend H. B. 43 by adding after the word "office" and the period (.) on page 2, line 20, the following: "Nothing in this act shall apply to person, firms or corporations organized, licensed and operating under the provisions of Chapter 17 of the Acts of the General Assembly of the regular session of 1934, now codified as Section 883-i-1 to 883-i-32 of Baldwin's 1934 Supplement to Carroll's Kentucky Statutes."

Mr. Myers moved that said bill and amendments thereto, be laid on the Clerk's desk.

Mr. Milam moved that said bill be laid on the table.

Said last named motion was agreed to.

And so said bill was tabled.

Ordered that a leave of absence be granted to Messrs. Kirkman and Silvers.

Mr. Hunnicutt moved that the Committee on Revenue and Taxation No. 1 hold an open hearing on H. B. 59 on today at one o'clock P. M.

Said motion was agreed to.

The House took up for consideration a bill entitled:

H. B. 37. An Act relating to revenue and taxation for the sale of vinous and spirituous liquors, etc.

With amendments thereto as proposed and adopted by the Senate.

(For bill see House Journal of April 21.)

(For amendments as proposed and adopted by the Senate, see House Journal of yesterday.)

Said amendments as offered by the Senate were each and severally concurred in.

Said bill was then passed as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
W. T. Baker
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Roscoe Claxon

George S. Clay
Roy Conway
Harry Davis
Sam Dever
Howard G. Early
Walter R. Fannin
Chas. P. Farnsley
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
Jas. T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
John Marshall
C. S. Matherly
D. T. Matlack
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
Henry Ward
L. R. Wells

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Those who voted in the negative were—

J. A. Coleman
Garland Embry
Elmer McGlothen
Charles Wylie

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Mr. Douglas Bolling moved that the vote by which the House passed said bill, as amended, be reconsidered and that said motion lie on the table.

The said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

Dr. Shields moved that the Rules of this House be suspended for the purpose of introducing bills.

Said motion was agreed to.

Thereupon the following bills were introduced, viz.:

By Mr. Ross:

H. B. 65. An Act relating to revenue and taxation and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Every person, firm, association or corporation selling or engaged in the business of selling golf clubs, golf balls, tees, or any other appliance used in the game of golf; base balls, baseball bats, catchers masks, chest protectors, gloves or mitts or any other appliance used in the game of baseball; fishing rods, reels, corks or floats, fishing hooks, artificial bait, nets or seines or any other appliance used for the catching or trapping of fish; canoes, motor boats, motor boat engines or outboard engines or any other appliance used in the connection with motor boats and canoes, uniforms used in the game of baseball, basketball, football or tennis or other games of sport; basketballs, footballs or any other appliance used in the games of basketball or football; shotguns of any description, rifles for target practice or otherwise, pistols and the various ammunition and all appliances for target shooting, or trap shooting or sport, or hunting; kodaks and cameras of all descriptions, films and plates, tripods and all other appliances thereto; tennis racquets and nets and all other equipment used in the game of tennis; roller skates and ice skates; camping equipment such as tents, portable stoves, lamps or lanterns used for camping purposes; folding chairs and camp cots used for camping purposes; gloves for prize fighting, trunks for prize fighting or wrestling; swimming or bathing suits; decoy ducks and collapsible boats used for duck hunting or other kinds of hunting in the Commonwealth of Kentucky shall pay to the Commonwealth of Kentucky a specific tax on said articles so sold, given away, exchanged or bartered at the rate of five cents (5c) on each fifty cents (50c) or a fractional part thereof of the retail selling price thereof up to and including the amount of the purchase price of two hundred dollars ($200.00) and on the purchase price exceeding two hundred dollars ($200.00) at the rate of five cents (5c) on each one dollar ($1.00) or the fractional part thereof, of the retail selling price thereof, but only one sale of the same article shall be used in computing the amount due, excepting such articles that retail for less than ten cents.

§ 2. The tax hereby imposed shall be paid by the dealer of any of the articles mentioned in section one hereof, on the first day of each calendar month on the sales occurring in the preceding month, and such dealer shall keep a daily report of all such sales on a form to be furnished by the Sheriffs of the respective counties of this Commonwealth on or before the date this Act becomes effective, and thereafter on demand by such dealer without charge therefor. Said blank form shall be the same form as herein provided for, to be drafted by the State Tax Commission for such daily reports.

§ 3. Every person, firm, association or corporation engaged in the business of manufacturing or distributing any of the articles mentioned in Section 1 of this Act, shall, as a part of the consderation for their privilege to engage in such business in the Commonwealth of Kentucky, file with the State Tax Commission of Kentucky, a monthly report, which report shall show the name and address of the dealer sold, and shall show an itemized list of each and every article sold to said dealer.

§ 4. The Sheriffs in the respective counties of this Commonwealth are hereby designated as agents of the State Tax Commission for the administration of this Act, and the enforcement of the payment of the tax hereon, and the State Tax Commission shall have prepared and furnish the said Sheriffs on or before the date this Act becomes effective, with the daily report blanks for said dealers, together with the monthly report blanks to be executed by said Sheriffs.

§ 5. The Sheriffs of the respective counties of this Commonwealth, on the tenth day of each calendar month, shall from the daily reports filed with them by said dealers, make and file with the State Tax Commission, a monthly report which shall show the names of the dealers in said county, and the total monthly sales of the articles mentioned in Section 1 of this Act, and together therewith shall forward his or their check, payable to the treasurer of the Commonwealth of Kentucky, for the amount of the tax so collected, less two per cent (2%) for compensation for services performed in connection with duties imposed by this Act.

§ 6. All moneys received or collected under the provisions of this Act, shall be deposited in the State Treasury and credited to the general fund, and shall be available for any provisions of which such general fund is made available by law.

§ 7. The State Tax Commission and their employees are hereby authorized and empowered to examine and inspect the merchandise, invoices, books and memorandums of any of said persons, firms, associations or corporations, manufacturing, selling or engaged in the business of selling any of the articles mentioned in Section 1 of this Act, for the purpose of securing information to determine whether or not the provisions of this Act are being fully obeyed, and the tax on such articles fully paid.

§ 8. Any person, firm, association, or corporation who shall fail to obey the provisions of this Act shall be deemed guilty of a misdemeanor, punishable by a fine of not less than ten dollars ($10.00) nor more than one hundred dollars ($100.00) or by imprisonment in the county jail of not less than ten days nor more than ninety days, or may be both so fined and imprisoned in the discretion of the court.

§ 9. The provisions of this Act are severable. If any part, section or sentence thereof shall be held unconstitutional, or invalid, the same shall not affect the validity of any remaining portion of this Act.

§ 10. As used in this Act: The word "person" shall be construed to mean and include persons, firms, associations and corporations.

(b) The word "distributor" shall be construed to mean every person who engages in the business of receiving or importing goods, wares, or merchandise and making the original sale thereof in this state.

(c) The word "dealer" shall be construed to mean and include every person other than a distributor who sells, offers for sale, or engages in the business of distributing or selling goods, wares, or merchandise in this state.

(d) The word "manufacturer" shall be construed to mean and include every person who manufactures, produces, or assembles goods, wares, or merchandise and offers same for sale, or engages in the business of distributing or selling said goods, wares or merchandise in this state; and,

(e) The word "sale" shall be construed to mean and include gift, exchange, barter, offer for sale and distribution.

(f) Wherever the words "State Tax Commission" are used in this Act, they shall be construed to mean, "Department of Revenue".

Whereas, the State revenue is not sufficient to balance the State Budget; and,

Whereas, it is necessary that funds be provided immediately, an emergency is hereby declared to exist and this Act shall take effect upon its passage by the General Assembly and approval by the Governor.

By Mr. Gough:

H. B. 66. An Act to amend and re-enact Section 2739j-78, Carroll's Kentucky Statutes, Baldwin's Revision, Supplement to 1933, which section is the part of Chapter 104 of the Acts of 1932, relating to the regulation and governing of transportation for hire of persons and property of motor vehicles on public highways.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 2739j-78, Carroll's Kentucky Statutes, Baldwin's Revision, Supplement to 1933, and being a part of Chapter 104 of the Acts of 1932, authorizing, regulating and governing the transportation for hire of persons and property of motor vehicles on public highways, so that said section as amended and re-enacted shall read as follows:

2739j-78.—There shall be paid by every operator of a motor vehicle for hire, subject to the provisions of this Act, as an excise tax for the privilege of using the highways the following rates per mile traveled upon the highways of this State by each motor vehicle for hire operated by him: (a) On each motor vehicle for hire, used primarily for the transportation of persons, with a passenger seating capacity of not more than seven (7) persons, one-fourth cent, eight (8) to sixteen (16) inclusive, one-half cent, seventeen (17) to twenty-five (25) inclusive, three-fourths cent, twenty-six (26) to twenty-nine (29) inclusive, one cent, thirty (30) or more, one and one-quarter cents; provided, however, the tax imposed by this subsection on account of the operation of any such motor vehicle shall be increased one hundred per cent if the annual registration fee prescribed by the law of this State on like motor vehicles is not paid because such motor vehicle is engaged in interstate commerce; (b) On each motor vehicle for hire, used primarily for the transportation of property, which vehicle, when unloaded, weighs less than five thousand pounds, one fourth cent; on vehicles weighing five thousand pounds and not more than six thousand pounds, one-half cent; and one-half additional cent for each ton or fraction thereof, which the unloaded motor vehicle weighs, in excess of three (3) tons; provided, however, the tax imposed by this subsection on account of the operation of any such motor vehicle shall be increased thirty per cent if the annual registration fee prescribed by the law of this State on like motor vehicles if not paid because such motor vehicle is engaged in interstate commerce. The tax imposed by this section shall in each instance be increased fifty per cent on each motor vehicle for hire not equipped wholly with pneumatic tires. There shall be added a penalty of one per cent per month for each month the payment of the tax imposed by this section is in default. The Commission is directed to collect all the taxes imposed by this section.

Ordered that said bills be printed and referred to the Committee on Revenue and Taxation No. 1.

Mr. Myers moved that the Rules of this House be suspended for the purpose of reconsidering the vote by which the clincher motion was applied to a bill entitled:

H. B. 4. An Act concerning Revenue and Taxation, relating to greyhound racing, etc.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. Munford and Garnett, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
C. W. Anderson, Jr.
W. T. Baker
G. M. Ballard
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
V. O. Chandler
Floyd Clark
George S. Clay
Roy Conway
Sam Dever
T. P. Fitzpatrick

H. Myer Garner
G. W. Garrett
Eugene Gough
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
John M. Hunnicut
Ben W. Johnson
J. H. Jones
J. F. Ladd
M. T. McCarthy
T. B. McConnell
W. F. McGary
Duke Mayfield
John B. Mollett
Rodes K. Myers
J. C. Nickell
Mel Petry
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Dr. B. F. Shields
P. L. Sidebottom
H. C. Steely
Henry Stewart
Dr. H. S. Swope
J. J. Thomas
S. J. Wagner
Henry Ward
W. G. Williams

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Those who voted in the negative were—

Henry H. Allen
H. T. Baker
Reuben J. Boling
Roscoe Claxon
J. A. Coleman
Harry Davis
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Chas. P. Farnsley
James Garnett, Jr.
Ferd A. Gnau
Ben Grogan
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
Elmer McGlothen
C. S. Matherly
D. T. Matlack
W. E. Mull
Tyler Munford
Russell O'Neill
A. W. Pfeiffer
Hobart Rayburn
W. T. Rollo
Carl Schneider
Ray O. Shehan
Bruce Sloan
R. Van Bever, Jr.
L. R. Wells
Charles Wylie

—31

Mr. Myers moved that the vote by which said bill was rejected, be reconsidered.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. Munford and Garnett, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
W. T. Baker
G. M. Ballard
B. F. Bedford
Douglas Bolling
Ollie J. Bowen

Wallace Brown
Jas. C. Carter
V. O. Chandler
Floyd Clark
George S. Clay
Roy Conway
T. P. Fitzpatrick
H. Myer Garner
G. W. Garrett
Eugene Gough
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
J. F. Ladd
M. T. McCarthy
T. B. McConnell
J. L. McDermott
W. F. McGary
Duke Mayfield
John B. Mollett
Rodes K. Myers
J. C. Nickell
Mel Petry
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Dr. B. F. Shields
H. C. Steely
Henry Stewart
Dr. H. S. Swope
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
—51

Those who voted in the negative were—

Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
Reuben J. Boling
Roscoe Claxon
J. A. Coleman
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Chas. P. Farnsley
James Garnett, Jr.
Ferd A. Gnau
Ben Grogan
Thomas W. Hines
O. C. Jones
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
Elmer McGlothen
C. S. Matherly
D. T. Matlack
W. H. Miller
W. E. Mull
Tyler Munford
Russell O'Neill
A. W. Pfeiffer
W. T. Rollo
Carl Schneider
Ray O. Shehan
P. L. Sidebottom
Bruce Sloan
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
—38

Mr. Davis moved that the House do now adjourn.

Said motion was disagreed to.

Mr. Garnett moved that the vote by which the Previous Question was ordered on said bill, be reconsidered.

Said motion was disagreed to, having failed to receive a majority necessary under a suspension of the Rules of this House.

The yeas and nays being required thereon, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
Reuben J. Boling
Ollie J. Bowen
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
James Garnett, Jr.
Ferd A. Gnau
Ben Grogan
Thomas W. Hines
Ira W. Hulette
O. C. Jones
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
Elmer McGlothen
C. S. Matherly
D. T. Matlack
W. H. Miller
W. E. Mull
Tyler Munford
A. W. Pfeiffer
Hobart Rayburn
W. T. Rollo
Carl Schneider
Ray O. Shehan
P. L. Sidebottom
Bruce Sloan
R. Van Bever, Jr.
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

—44

Those who voted in the negative were—

F. T. Allen
G. M. Ballard
B. F. Bedford
Douglas Bolling
Wallace Brown
Jas. C. Carter
V. O. Chandler
Floyd Clark
T. P. Fitzpatrick
H. Myer Garner
G. W. Garrett
Eugene Gough
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
John M. Hunnicut
Ben W. Johnson
J. H. Jones
J. F. Ladd
M. T. McCarthy
T. B. McConnell
J. L. McDermott
W. F. McGary
Duke Mayfield
John B. Mollett
Rodes K. Myers
J. C. Nickell
Mel Petry
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson

A. W. Ross
Carl Scheben
Dr. B. F. Shields
H. C. Steely
Dr. H. S. Swope
J. J. Thomas
S. J. Wagner
Joseph L. Wall
—44

Mr. Carter moved that the House do now adjourn.

Said motion was disagreed to.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and rejected.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
G. M. Ballard
B. F. Bedford
Douglas Bolling
Wallace Brown
V. O. Chandler
George S. Clay
Herbert Cook
T. P. Fitzpatrick
Eugene Gough
James T. Hamilton
C. L. Hammons
Price Holbrook
John M. Hunnicut
Ben W. Johnson
J. H. Jones
J. F. Ladd
M. T. McCarthy
J. L. McDermott
John B. Mollett
Rodes K. Myers
Mel Petry
J. C. Ramey
Harry C. Records
Joe E. Robinson
John C. Robinson
Carl Scheben
H. C. Steely
Dr. H. S. Swope
S. J. Wagner
—30

Those who voted in the negative were—

Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
Reuben J. Boling
Ollie J. Bowen
Jas. C. Carter
Floyd Clark
Roscoe Claxon
J. A. Coleman
Roy Conway
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Chas. P. Farnsley
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Ben Grogan

W. L. Hampton, Jr.
Thomas W. Hines
Clyde S. Howard
Ira W. Hulette
O. C. Jones
Leslie Larrimore
Robert E. Lee
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. H. Miller
W. E. Mull
Tyler Munford
J. C. Nickell
Russell O'Neill
A. W. Pfeiffer
Hobart Rayburn
L. K. Rice
Wade H. Riley
W. T. Rollo
A. W. Ross
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
Henry Stewart
J. J. Thomas
R. Van Bever, Jr.
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
—59

Mr. Fitzpatrick moved that the vote by which said bill was rejected be reconsidered and that said bill be laid on the Clerk's desk.

Mr. Gnau moved that further consideration of said bill be postponed indefinitely.

Said last named motion was agreed to.

Dr. Shields moved that the Rules of this House be suspended for the purpose of allowing the Committee on Revenue and Taxation No. 1 to make a report.

Said motion was agreed to.

Thereupon Mr. Brown of the Committee on Revenue and Taxation No. 1, to which the same had been previously referred, reported bills of the following titles, viz.:

H. B. 65. An Act relating to revenue and taxation and declaring an emergency.

With the expression of opinion that said bill ought to pass.

H. B. 13. An Act relating to revenue and taxation and providing for the granting and extension of Teachers Certificates in the Commonwealth of Kentucky.

Without an expression of opinion.

Said bills were each read at length the first time and ordered to be placed on the Calendar.

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, a bill entitled:

H. B. 20. An Act to repeal subsection (h), Chapter 90 of the Acts of 1920 and amending and re-enacting subsection (h) being an Act relating to vehicles.

Thereupon all other business was suspended, said bill was read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bill to the Senate.

After a time the Enrolling Clerk delivered the original and enrolled copies of said bill, duly signed by the President of the Senate, into the possession of the Chief Clerk of the House.

Ordered that the Chief Clerk deliver said bill to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

Dr. Shields moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

THURSDAY, APRIL 30, 1936.

The House was opened with prayer by the Reverend Hampton Adams of the First Christian Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer

J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
John Kirtley, Spkr.

Mr. Shehan moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, a bill entitled:

H. B. 37. An Act relating to revenue and taxation for the sale of vinous and spirituous liquors, etc.

Thereupon all other business was suspended, said bill was read at length and compared in open session and found to be correctly enrolled and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bill to the Senate.

After a time the Enrolling Clerk delivered the original and enrolled copies of said bill, duly signed by the President of the Senate, into the possession of the Chief Clerk of the House.

Ordered that the Chief Clerk deliver said bill to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

Mr. W. T. Baker moved that a bill entitled:

H. B. 3. An Act relating to revenue and taxation, placing a tax upon the manufacture of each proof gallon of liquor.

Be taken from the Committee on Revenue and Taxation No. 1 and advanced to a reading.

Mr. Gnau moved that said motion be laid on the table.

Said last named motion was disagreed to.

The yeas and nays being required thereon by Messrs. Baker and Matlack, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
C. W. Anderson, Jr.
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
V. O. Chandler
Roscoe Claxon
George S. Clay
Sam Dever
Walter R. Fannin
James Garnett, Jr.
Ferd A. Gnau
C. L. Hammons
W. L. Hampton, Jr.
Ira W. Hulette
J. F. Ladd
M. T. McCarthy
T. B. McConnell
J. L. McDermott
John B. Mollett
Tyler Munford
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas

—38

Those who voted in the negative were—

H. T. Baker
W. T. Baker
Reuben J. Boling
Dr. R. A. Byers
Floyd Clark
J. A. Coleman
Roy Conway
Herbert Cook
Harry Davis
Stanley S. Dickson
George W. Dunlap
Garland Embry
H. Myer Garner
G. W. Garrett
Eugene Gough
Ben Grogan
James T. Hamilton
Thomas W. Hines
Clyde S. Howard
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. H. Miller
J. C. Nickell
Russell O'Neill
L. K. Rice
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

—46

The motion as made by Mr. Baker was then disagreed to, having failed to receive a majority necessary under the Rules of this House.

The yeas and nays being required thereon by Messrs. Baker and Matlack, were as follows, viz.:

Those who voted in the affirmative were—

H. T. Baker
W. T. Baker
Reuben J. Boling
Dr. R. A. Byers
J. A. Coleman
Roy Conway
Herbert Cook
Harry Davis
Stanley S. Dickson
Garland Embry
H. Myer Garner
Eugene Gough
Ben Grogan
James T. Hamilton
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ben W. Johnson
J. H. Jones
R. T. Kirkman
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. H. Miller
John B. Mollett
J. C. Nickell
Russell O'Neill

L. K. Rice
P. L. Sidebottom
Chester D. Silvers
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

—40

Those who voted in the negative were—

F. T. Allen
C. W. Anderson, Jr.
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
V. O. Chandler
Roscoe Claxon
George S. Clay
Sam Dever
Walter R. Fannin
James Garnett, Jr.
Ferd A. Gnau
C. L. Hammons
W. L. Hampton, Jr.
Ira W. Hulette
J. F. Ladd
T. B. McConnell
J. L. McDermott
Tyler Munford
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
Carl Scheben
Carl Schneider
Dr. B. F. Shields
Bruce Sloan
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
Joseph L. Wall

—37

Mr. Garnett moved that the vote by which the House refused to take said bill from the Committee on Revenue and Taxation No. 1 be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

A message was received from the Senate announcing that they had passed a resolution which originated in this House entitled:

H. Res. 6. Resolution providing for a Joint Session for the purpose of allowing friends and family of former Governor William Jason Fields to present his portrait to the State Historical Society.

And that they had passed a bill which originated in this House, entitled:

H. B. 48. An Act concerning revenue and taxation and declaring an emergency.

With the following amendments thereto as proposed and adopted by the Senate, viz.:

1. Amend H. B. 48 in Senate, by striking from Section 3, subsection (b), on page 2, the following words: "During the same or immediately preceding license period".

2. Amend H. B. 48 in Senate, Section 3, subsection (d), lines 11 to 14 inclusive, page 2 of the printed bill, by striking out all of subsection (d) and inserting in lieu thereof the following language:

"(d) Vehicles of a common carrier or contract carrier upon which vehicle both a franchise and mileage tax is paid by the owner. And the owner shall be required to exhibit both franchise and mileage tax receipts for the same or immediately preceding license period."

Mr. Clay moved that the Rules of this House be suspended and that a bill entitled:

H. B. 62. An Act relating to revenue and taxation of pin machines and declaring an emergency.

Be recommitted to the Committee on Revenue and Taxation No. 1 and that said bill, when reported, retain its place in the Orders of the Day.

Said motion was agreed to.

Mr. Garnett moved that the Rules of this House be suspended for the purpose of taking up for consideration a bill entitled:

H. B. 7. An Act requiring auctioneers doing business in the State of Kentucky, whether residents or non-residents of the said State, to obtain a license before doing any of said business, etc.

With amendments thereto as proposed and adopted by the Senate.

Said motion was agreed to.

Thereupon the House took up for consideration said bill.

(For bill see House Journal of April 13.)

(For amendments as proposed and adopted by the Senate, see House Journal of April 22.)

Amendment No. 1 as proposed by the Senate, was then concurred in.

Dr. Shields moved that said bill and amendments thereto as proposed and adopted by the Senate, be laid on the Clerk's desk.

Said motion was agreed to.

Dr. Shields moved that the Rules of this House be suspended for the purpose of taking up for consideration, the Orders of the Day.

Said motion was agreed to.

Thereupon the House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 64. An Act relating to revenue and taxation, repealing, amending and re-enacting Sections 5 and 12 of Chapter 26 of the Acts of the Special Session of 1934, etc.

H. B. 36. An Act to raise revenue by requiring peddler truckers to pay fees and charges, to define the term peddler trucker, etc.

H. B. 63. An Act relating to revenue and taxation of certain motor fuels and declaring an emergency.

H. B. 65. An Act relating to revenue and taxation and declaring an emergency.

H. B. 13. An Act relating to revenue and taxation and providing for the granting and extension of teachers' certificates in the Commonwealth of Kentucky.

Ordered that said bills be read the second time.

The constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 61. An Act relating to revenue and taxation and declaring an emergency.

Dr. Shields moved that said bill be recommitted to the Committee on Revenue and Taxation No. 1.

Said motion was agreed to.

Mr. Joe E. Robinson moved that the Rules of this House be suspended and that a bill entitled:

H. B. 36. An Act to raise revenue by requiring peddler truckers to pay fees and charges, to define the term peddler trucker, etc.

Be recommitted to the Committee on Revenue and Taxation No. 1.

Said motion was disagreed to, having failed to receive a majority necessary under the rules of this House.

The yeas and nays being required thereon by Messrs. Munford and Garnett, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
H. T. Baker
B. F. Bedford
Reuben J. Boling
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
J. A. Coleman
Herbert Cook
Sam Dever
Garland Embry
Walter R. Fannin
G. W. Garrett
Jas. T. Hamilton
W. L. Hampton, Jr.
Price Holbrook
Ira W. Hulette
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
T. B. McConnell
J. L. McDermott
W. F. McGary
Elmer McGlothen
C. S. Matherly
J. C. Nickell
Russell O'Neill
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
Henry Stewart
W. R. Tapp
J. J. Thomas
Joseph L. Wall

—45

Those who voted in the negative were—

C. W. Anderson, Jr.
W. T. Baker
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Roy Conway
Stanley S. Dickson
George W. Dunlap
Howard G. Early
James Garnett, Jr.
Eugene Gough
Ben Grogan
C. L. Hammons
Clyde S. Howard
John M. Hunnicut

Ben W. Johnson
Leslie Larrimore
Robert E. Lee
John Marshall
D. T. Matlack
G. S. Milam
W. H. Miller
John B. Mollett
Tyler Munford
Mel Petry
W. T. Rollo
Carl Schneider
Ray O. Shehan
Chester D. Silvers
H. C. Steely
Dr. H. S. Swope
Henry Ward
L. R. Wells
Charles Wylie

—34

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 44. An Act relating to revenue and taxation of lubricating oil and declaring an emergency.

With Committee amendments thereto.

Mr. Brown moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 56. An Act to repeal, amend and re-enact Chapter one hundred fifty-one (151) of the Acts of the General Assembly of the Commonwealth of Kentucky of 1932, now codified as Section 4238 of Baldwin's 1933 Supplement to Carroll's Kentucky Statutes, "being an Act relating to revenue and taxation so as to increase the state tax on the recording of certain instruments and marriage licenses".

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Chapter one hundred fifty-one (151) of the Acts of the General Assembly of the Commonwealth of Kentucky of 1932, now codified as Section 4238 of Baldwin's 1933 Supplement to Carroll's Kentucky Statutes, ''being an Act relating to revenue and taxation so as to increase the state tax on the recording of certain instruments and marriage licenses'', be and the same is hereby repealed, amended and re-enacted so that said section as amended and re-enacted shall read:

(a) There is imposed a tax of four dollars ($4.00) on each verdict of a petit jury in civil cases in circuit court;

(b) There is imposed a tax of three dollars and fifty cents ($3.50) on each marriage license;

(c) There is imposed upon the filing and registering of a plat and certificate of survey, and issuing and recording patent thereon one charge which shall be paid before the survey is filed, but not to apply to a survey heretofore filed in the register's office, a tax of two dollars and fifty cents ($2.50) for each survey consisting of ten (10) acres or less, and a tax of five dollars ($5.00) for each survey in excess of ten (10) acres;

(d) There is imposed a tax of two dollars ($2.00) on each appeal to the Court of Appeals;

(e) There is imposed a tax of one dollar ($1.00) on each deed or power of attorney to convey real or personal estate; on each mortgage or conveyance of personal property; on each lien or conveyance of coal, oil, gas, or other mineral right or privilege;

(f) There is imposed a tax of one dollar ($1.00) for issuing a land warrant, for each official certificate with seal of office affixed;

(g) There is imposed a tax of fifty cents (50c) as follows: On each original action or proceeding in the circuit court, commencing with or without orignal process, and on each orginal action or proceeding in other courts, when the amount in controversy, exclusive of interest and costs, exceeds fifty dollars ($50.00); and on each appeal to the circuit or quarterly court and on each traverse or forcible entry or detainer and on each proceeding to reverse a judgment;

(h) There is imposed a tax of fifth cents (50c) on the seal of court required by law to keep a seal except for the purpose of issuing the license authorized by the State;

(i) There is imposed a tax of fifty cents (50c) for a copy of a plat; for a copy of a course and distances of any patent or survey; and for a copy of an entry or land warrant;

(j) There is imposed a tax of twenty-five cents (25c) for filing a caveat; for filing a copy of judgment of a court in a case of a caveat mandamus or other proceeding affecting the land office, or the duties of the register; and for a copy of an assignment;

(k) There is imposed a tax of two cents (2c) for each twenty words of: a copy of a caveat; a copy of any writing not specifically provided for.

Said tax shall be due and payable when said processor instruments are filed or issued, or copies thereof furnished.

§ 2. All revenues derived under the provisions of this Act shall be covered into the State Treasury and credited to the General Expenditure Fund.

§ 3. Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State government and its agencies an emergency is declared to exist and this Act shall become a law and be effective on its passage and approval by the Governor.

Mr. McGary moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Clay moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

Mr. Hunnicutt moved that the Rules of this House be suspended and that the vote by which the House agreed to postpone indefinitely consideration of a bill entitled:

H. B. 4. An Act relating to revenue and taxation and imposing a tax on greyhound racing in this State.

Be reconsidered.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Hunnicutt and Garnett, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
V. O. Chandler
Floyd Clark
George S. Clay
Roy Conway
Herbert Cook
Sam Dever
Walter R. Fannin
T. P. Fitzpatrick
G. W. Garrett
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
John M. Hunnicut
Ben W. Johnson
J. H. Jones
J. F. Ladd
M. T. McCarthy
J. L. McDermott
W. F. McGary
John Marshall
G. S. Milam
John B. Mollett
Rodes K. Myers
J. C. Nickell
Mel Petry
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
A. W. Ross
Dr. B. F. Shields
H. C. Steely
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall

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Those who voted in the negative were—

C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
Reuben J. Boling
Roscoe Claxon
J. A. Coleman

Harry Davis
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
James Garnett, Jr.
Ferd A. Gnau
Ben Grogan
Thomas W. Hines
Ira W. Hulette
O. C. Jones
R. T. Kirkman
Leslie Larrimore
Robert E. Lee
T. B. McConnell
Lloyd MacDonald
Elmer McGlothen
C. S. Matherly
D. T. Matlack
W. H. Miller
Tyler Munford
Russell O'Neill
A. W. Pfeiffer
Hobart Rayburn
W. T. Rollo
Carl Schneider
Ray O. Shehan
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
Henry Stewart
R. Van Bever, Jr.
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
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The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 60. An Act providing for licensing raw fur dealers.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions*: Whenever used in this Act, unless the context requires otherwise,

(a) "Person" shall mean and include any individual or individuals, partnership, joint stock company, association, fiducary, or corporation;

(b) "Raw furs" shall mean and include the pelt or fur that has been taken from any animal that is protected in this State by the game and fish laws and such pelt or fur as has not been tanned or put through any process;

(c) "Non-resident dealer" shall mean and include any person not a resident of Kentucky who comes into Kentucky to buy raw furs in any quantity from either wholesale dealers or local raw fur buyers or anyone in this State;

(d) "Wholesale dealer" shall mean and include any person who purchases raw furs from local raw fur buyers in quantities in excess of two thousand dollars ($2,000.00) per annum;

(e) "Local dealer" shall mean and include any person who buys raw furs in any county in the State in quantities in excess of two thousand dollars ($2,000.00) per annum;

(f) "Department" shall mean the Department of Conservation of the Commonwealth of Kentucky;

(g) "Division" shall mean the Division of Game and Fish of the Department of Conservation.

§ 2. An annual license tax on the business of raw fur dealers is hereby imposed at the following rates:

Non-resident raw fur dealers, one hundred and fifty dollars ($150.00) per annum;

Resident whosesale raw fur dealers, twenty-five dollars ($25.00) per annum;

Resident local dealers or buyers, five dollars ($5.00) per annum.

§ 3. It shall be unlawful for any person to buy raw furs in the State of Kentucky before first procuring a license from the Division of Game and Fish whose office is Frankfort, Kentucky.

The Division of Game and Fish may upon application by any person accompanied by a certified or cashier's check in the amount of the proper fee issue a license permitting the licensee to engage in purchasing and/or dealing in raw furs.

§ 4. The Division of Game and Fish shall have the power to promulgate such rules and regulations and prescribe such blanks and forms as may be necessary for the administration of the provisions of this Act including the right to suspend or revoke any license issued hereunder.

§ 5. Any person violating any provision of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifteen dollars ($15.00) nor more than one hundred dollars ($100.00) for each offense or by imprisonment in the county jail not exceeding thirty (30) days or by both such fine and imprisonment.

§ 6. All revenues collected hereunder shall be covered into the State treasury and credited to the Division of Game and Fish.

Mr. McConnell offered the following amendments to said bill, viz.:

Amend H. B. 60, Section 6, page 3, line 1, by striking out the word "covered" and adding in lieu thereof the word "converted".

Amend H. B. 60, Section 6, page 3, line 1, by striking out 17, just after the word "quantities" and adding the word "not".

Said amendments were each agreed to.

Mr. McConnell moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, and the same being engrossed, said bill was read the third time by its title only and rejected.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

B. F. Bedford
Reuben J. Boling
Douglas Bolling
Wallace Brown
V. O. Chandler
Floyd Clark
Roscoe Claxon
Howard G. Early
W. L. Hampton, Jr.
Ira W. Hulette
T. B. McConnell
J. L. McDermott
Duke Mayfield
W. H. Miller
Hobart Rayburn
Joe E. Robinson
A. W. Ross
Ray O. Shehan
Dr. B. F. Shields
Chester D. Silvers
H. C. Steely
Dr. H. S. Swope
J. J. Thomas
R. Van Bever, Jr.
Joseph L. Wall
Henry Ward

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Those who voted in the negative were—

C. W. Anderson, Jr.
H. T. Baker
Ollie J. Bowen
Dr. R. A. Byers
Jas. C. Carter
George S. Clay
J. A. Coleman
Herbert Cook
Sam Dever
Walter R. Fannin
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
J. H. Jones
O. C. Jones
R. T. Kirkman
Lloyd MacDonald
Elmer McGlothen
John Marshall
D. T. Matlack
G. S. Milam
John B. Mollett
J. C. Nickell
Russell O'Neill
A. W. Pfeiffer
J. C. Ramey
L. K. Rice
Wade H. Riley
John C. Robinson
W. T. Rollo
Carl Schneider
P. L. Sidebottom
Henry Stewart
W. R. Tapp
L. R. Wells
W. G. Williams
Charles Wylie

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Mr. McConnell moved that the vote by which said bill was rejected, be reconsidered and that said bill be laid on the Clerk's desk.

Said motion was agreed to.

The hour of one o'clock P. M. having arrived, that being the time for the Joint Session of the House of Representatives and Senate of Kentucky, the Senate in order entered upon the floor of the House and the Hon. Keen Johnson, Lieutenant Governor and President of the Senate, took the

Chair and presided, the Hon. John Kirtley, Speaker of the House of Representatives, having taken a seat on the right of the President of the Senate, the two Houses were convened in Joint Session which was composed of a majority of all the members elected to each House.

The Hon. Keen Johnson, Lieutenant Governor and President of the Senate, requested Mr. Harry McChesney to take the Chair and preside over the ceremonies of presenting a portrait of former Governor William Jason Fields to the State Historical Society.

Thereupon Mr. McChesney, President of the State Historical Society, took the Chair and presided and accepted with proper ceremony the portrait which was presented to the State Historical Society by friends and family of former Governor William Jason Fields.

The Joint Session having dissolved, the Speaker resumed the Chair and called the House to order.

Dr. Shields moved that a bill entitled:

H. B. 44. An Act relating to revenue and taxation of lubricating oil and declaring an emergency.

With Committee amendments thereto, be taken up for consideration from the Clerk's desk.

Said motion was agreed to.

Thereupon the House took up for consideration said bill.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* Whenever used in this Act unless the context requires otherwise:

(a) "Person" shall mean and include any individual or individuals, association, firm, co-partnership, corporation, receiver, trustee, conservator, or other officer appointed by any State or Federal Court.

(b) "Lubricating oil" shall mean any oil or liquid from whatever source derived which is commercially used for the purpose of lubricating the movable parts of any internal combustion engine or steam engine, except railroad locomotives, and including such oil or liquids so usable irrespective of whether purchased or used for such purpose.

(c) "Dealer" is hereby defined as any person who imports or causes to be imported in the State of Kentucky lubricating oil as herein defined for use, distribution, or sale and delivery in the State of Kentucky and after the same shall reach the State of Kentucky; also any person who produces, refines, manufactures or compounds lubricating oil in the State of Kentucky for use, distribution or sale and delivery in this state; also any person who receives lubricating oil by tank car, barge or pipe line delivery or other means of transport from any point within this state upon which lubricating oil the license tax levied by this Act has not been paid.

(d) "Department" means the Department of Revenue of the Commonwealth of Kentucky.

(e) Lubricating oil shall be deemed "received" when so designated by the term "received" in this Act when it shall have been caused to be imported into the State of Kentucky by any person for use, distribution, or delivery and sale and when it shall have been placed in any containers of whatever nature for use or subject to withdrawal for use, distribution or sale and delivery. Lubricating oil produced, refined, manufactured or compounded at any refinery in the State of Kentucky by any person shall be deemed to be "received" as the word "received" is used in this Act by such person when the same shall have been loaded into any car, truck or other means of conveyance or transport for delivery within the

State of Kentucky or placed in any tank or other container of whatever nature from which sales or deliveries are made at the refinery where the same is producd, refined, manufactured, or compounded. Lubricating oil imported by any person into the State of Kentucky and received through delivery by boat at a marine terminal for storage, or delivered by pipe line at a pipe line terminal for storage, shall be deemed to have been "received" when the same shall have been loaded into any car, truck, or other means of conveyance or transport for delivery within the State of Kentucky or placed in any tank or other container of whatever nature from which sales or deliveries are made at such respective marine or pipe line terminals. Provided that dealers may sell lubricating oil to licensed bonded dealers in the State of Kentucky in transport truck load, carload, or cargo lots withdrawing such lubricating oil from refinery, marine or pipe line termnial storage tanks, without paying the tax on such lubricating oil. In such instances the licensed bonded dealers purchasing such lubricating oil shall be deemed as having "received" such lubricating oil and shall assume responsibility to the State for the payments of the tax thereon and shall report and pay the tax on such lubricating oil purchased and received.

(f) "Accountable losses" of lubricating oil shall be construed to mean that "received" lubricating oil which, through wrecking of transportation equipment, fire, and/or accident, shall have been lost or destroyed; report of such loss made to the Department in a manner and form to be prescribed by the Department and supported by positive and conclusive evidence in the judgment of the Department, of such alleged loss, and confirmed in writing to the reporting dealer by the Department to establish the *bona fide* claim of such loss.

§ 2. *Rate of Tax.* A tax of eight cents (8c) per gallon is hereby imposed on all lubricating oil received in this Commonwealth as the word "received" is hereinbefore defined. No other excise or license tax shall be levied or assessed on the receipt, storage, transportation or sale of lubricating oil by the State or any political subdivision of the State. The tax hereby provided for shall be paid by the dealer receiving such lubricating oil to the State Treasurer in the manner and within the time hereinafter specified. Nothing herein contained shall be construed as authorizing or requiring the collection of such tax upon any lubricating oil after the same shall have been already once taxed under the provisions of this Act.

§ 3. *Distribution of Funds.* All taxes, penalties, and interest collected under the provisions of this Act shall be covered into the State Treasury and credited to the General Expenditure Fund.

§ 4. *Records Required.* Every dealer receiving lubricating oil in the State of Kentucky shall keep and preserve for a period of two years an accurate record of all such receipts and as well of all production, refining, manufacture, compounding, use, sale, distribution and delivery of lubricating oil together with invoices, bills of lading and other pertinent records and papers as may be required by the Department. Every person purchasing lubricating oil from a dealer for the purpose of resale shall maintain and keep for a period of one year a record of all such lubricating oil so purchased and sold or used, the amount of tax paid to the dealers as part of the purchase price together with delivery tickets, invoices, bills of lading and such other records as the Department shall require.

§ 5. *Reports required of Refiners and Importers.* Any person who or which produces, refines, manufactures or compounds or otherwise prepares lubricating oil in the State of Kentucky shall on or before the 10th day of each month file a report with the Department on forms prescribed for the purpose and covering the next preceding calendar month of the number of gallons of lubricating oil produced, refined, manufactured or compounded or otherwise prepared, the number of gallons withdrawn from refinery storage and shipped to points outside of the State, the numer of gallons withdrawn from refinery storage and shipped to points within the State of Kenucky upon which tax has not been paid, and giving in detail the following data regarding each separate shipment; date of shipment, number of gallons in each shipment, name of owner and license number of truck, if shipped by transport truck, initial and number of tank car if shipped by rail, name and owner of barge if shipped by water, name and address of person to whom shipped, point of shipment, point of destination and name of carrier to whom delivered for transportation to destination. Any person who or which imports and stores lubricating oil in any marine or pipe line terminal storage in the State of Kentucky shall on or before the 10th day of each month file a report with the Department on forms prescribed for the purpose and covering the next preceding calendar month of the total number of gallons of gasoline unexported and stored, the total number of gallons withdrawn from storage and received, the number of gallons withdrawn from storage and shipped to points outside the State and the number of gallons withdrawn from storage and shipped to points within the State of Kentucky upon which tax has not been paid, and giving in detail the following data regarding each separate shipment: Date of shipment, number of gallons in each shipment, name of owner and license number of truck, if shipped by transport truck, initial and number of tank car if shipped by rail, name and owner of barge if shipped by water, name and address of person to whom shipped, point of shipment, point of destination and name of carrier to whom delivered for transportation to destination.

§ 6. *Reports of Transportation.* Every railroad or other transportation company and every other person, firm, association, partnership or corporation transporting lubricating oil as defined in Section 1 of this Act by whatsoever manner from without the State to points within this State, or between points within the State shall report to the Department on forms prescribed by the Department, showing the name and adress of each person, firm or corporation to whom deliveries of lubricating oil have been made, the name and address of the original consignee, if deliveries are made to any other than the orginal consignee, the name and address of the consignor, the point of origin, the point of delivery, the date of delivery, the number and initials of each tank car, if shipped by rail, the quantity of each shipment and delivery in gallons, the manner of shipment and delivery, and such other information as the Department may require relative to the transportation and delivery of such lubricating oil. Such reports are to include intra-city switching movements of lubricating oil in tank cars or otherwise. Such reports shall be made under oath and shall be filed on or before the last day of every month covering all such deliveries made within the State during the preceding calendar month.

§ 7. *Report of Sales by Counties.* Every dealer shall on or before the last day of the month file a report with the Department showing the total number of gallons sold, distributed or used in each county of the State during the next preceding calendar month.

§ 8. *Reports Required on Lubricating Oil Received.* Every dealer or the treasurer or other proper officer or agent of every dealer shall on or before the last day of each month transmit to the Department a statement under oath or affirmation on such forms as the Department may prescribe of the total number of gallons of lubricating oil received as the term "received" is hereinbefore defined in the State of Kentucky during the next preceding calendar month and the statement shall include the following information:

(a) An itemized statement of the number of gallons of all lubricating oil received during the next preceding calendar month by such dealer which has been produced, refined, manufactured or compounded by such dealers in the State of Kentucky.

(b) An itemized statement of the number of gallons of all lubricating oil received by such dealer in the State of Kentucky from any source whatsoever during the next preceding calendar month as shown by shippers' invoices thereof, other than the lubricating oil falling within the provisions of (a) above, together with a statement showing the date of receipt of such lubricating oil, the name of the person from whom purchased, the date of receipt of each shipment of lubricating oil, the point of origin and the point of destination, the quantity of each of said purchases or shipments, the name of the carrier, the initials and number of each tank car, date of receipt and the number of gallons contained in each car if shipped by rail or the name and owner of the boat, ship, barge or vessel if shipped by water.

(c) An itemized statement of the number of gallons of received lubricating oil, if any, which such dealer has during the preceding calendar month:

(1) Sold to the United States Government or any of its agencies.

(2) Sold for delivery in Kentucky in transport truck, tank car or cargo lots to licensed bonded dealers. Statement shall give a record of all such transport truck, tank car or cargo sales of lubricating oil, giving the date of shipment, the number of gallons contained in each shipment, the name of the owner, and license number of truck, if shipped by transport truck, the initials and number of the tank car if shipped by rail, the name and owner of the boat, barge or vessel and the number of gallons contained therein, if shipped by water, and shall set forth the name of the person to whom sold, point of shipment and point of delivery.

(3) Lost through accountable losses which have been reported to and approved in writing by the Department as provided in Section 1-f of this Act.

(4) Exported or sold for export from the State of Kentucky to any other state or to any foreign country.

(d) Such other information as may be required by the Department.

§ 9. *Receipt and Tax on Inventory.* In addition to the data required in Section 8, the report rendered by any dealer for the first calendar month from and after the date when this Act shall have become effective shall contain a statement of the number of gallons of lubricating oil on hand, untaxed and received (within the meaning of the term "received" as defined in Section 1-e of this Act), by such dealers as of the date when this Act shall have become effective. Such lubricating oil shall be deemed to have been received by such dealer in six equal quantities in the first six calendar months following the effective date of this Act, one-sixth of the total quantity in each month and each one-sixth shall be included in computing the tax payable by said dealer for each of said six months.

§ 10. *Computation and Payment of Tax.*

(a) From the total number of gallons of lubricating oil received by the dealer within the State of Kentucky during the next preceding calendar month, the following deductions shall be made:

(1) The total number of gallons of lubricating oil received by the dealer within the State of Kentucky and sold or otherwise disposed of during the next preceding calendar month as set forth in Section 8, paragraph (c), (1)-(2)-(3) and (4) of this Act.

(2) That number of gallons of lubricating oil which shall be equal to one per cent (1%) of the total number of gallons of lubricating oil received by the dealer within the State of Kentucky during the next preceding calendar month, less the total number of gallons deducted under sub-paragraph (1) next preceding; this deduction being allowed to cover evaporation, shrinkage, unaccountable losses, collection costs, bad debts, handling and reporting the tax.

(b) The tax at the rate of eight cents (8c) per gallon of lubricating oil shall be computed on the number of gallons remaining after the deductions hereinabove set forth have been made and shall constitute the amount of lubricating oil taxable for the next preceding calendar month.

The report required in Section 8 shall be accompanied by a certified or cashier's check payable to the Treasurer of the Commonwealth of Kentucky for the amount of tax due for such preceding month.

§ 11. *Failure to Report and Pay Tax, Penalties Provided.* If any dealer neglects or refuses to make said return, or pay the tax at the time hereinbefore provided, the amount thereof, with an addition of a penalty of twenty per cent (20%) thereof, with interest at the rate of six per cent per annum (6%) from the date when due until paid, shall be paid on an account settled by the Department as other taxes are paid, settled and collected; and, if collected by proceedings in any court, an additional penalty of twenty per cent (20%) shall be collected as is authorized to be collected under Section 4263-4 of the Kentucky Statutes as amended by House Bill number one, of the First Extraordinary Session of 1936.

The said twenty per cent penalty thereon and interest due shall be paid into the State Treasury as part of the tax, and the additional twenty per cent penalty collected by suit shall be distributed as provided in Section 4263-4 of the Kentucky Statutes as amended by House Bill number one, of the First Extraordinary Session of 1936.

§ 12. *Penalties for Violation.* By virtue of the allowance provided herein to dealers for collecting the tax and remitting the same to Department, every dealer is a trust officer of the State, and failure to remit lubricating oil tax to the State as provided herein constitutes embezzlement of State funds, and upon conviction under this Section, any individual, or partner, or officer, or agent of any association, partnership or corporation shall be guilty of a misdemeanor and shall be fined not exceeding one thousand dollars ($1,000) or imprisoned in the county jail not exceeding six months, or both so fined and imprisoned, and upon conviction on a second offense under this section, shall be guilty of a felony and shall be imprisoned for not less than one year or more than five years in the State prison.

Provided that in case such violator be other than a natural person, then the principal officer and/or the officer or officers responsible for such violation shall be punished by such imprisonment.

§ 13. *Powers and Duties of the Department.* The administration of this Act is vested in the Department of Revenue, which may prescribe forms and promulgate rules and regulations needed for the enforcement of this Act.

The Department, through a representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment and/or inventory of any person made liable for any tax under the provisions of this Act; to examine witnesses under oath for purposes appropriate for enforcement of this Act; and to examine the books, records, papers, files, equipment and/or inventory of any person for the purpose of determining whether the Act is being violated.

The Department shall have the power to institute legal proceedings by the Attorney General of Kentucky, or any attorney duly authorized by him, for the purpose of ascertaining the amount of tax due and/or enforcing the collection thereof with penalties and interest thereon, and for the purpose of enjoining the operation of the business of the delinquent.

The Department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalty and interest thereon, as set out herein, have an attachment against the property of the person liable for tax or garnishment of his creditors without the execution of bond on the filing of an affidavit showing the nature of the claim, that it is just, the sum which the Department believes the Commonwealth should recover, on any of the grounds provided by the Civil Code of Practice for the issuance of an attachment in civil causes.

§ 14. *Information Privileged.* Any information obtained by the Department or any agent or representative thereof as a result of a report, investigation, or verification herein authorized to be made shall be confidential and any person divulging any such information except upon order of a court of competent jurisdiction or to an officer of the Commonwealth entitled to receive the same in his official capacity shall be fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500.00).

§ 15. *Restraining Suits.* No suit shall be maintained in any court to restrain or delay the collection of the tax herein imposed on any grounds whatever but the aggrieved taxpayer shall pay under protest the tax as and when due and may at any time within two years after such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in any action in any court, State or Federal, otherwise having jurisdiction of the subject matter for the recovery of the tax so paid with legal interest thereon from the day of payment. If it can be finally determined that said tax or any part thereof was wrongfully collected for any reason, it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected, together with interest thereon; and the Treasurer shall pay the same at once out of the Road Fund of the State in preference to other warrants or claims against the Commonwealth. Separate suits need not be filed for each separate payment by any taxpayer but recovery may be had in one suit for all suits heretofore paid or not barred by the limitation of two years herein imposed.

§ 16. *Penalties for Failure to Make Returns, to Pay Tax, or to Permit Examination of Records.* Any person or dealer who shall fail, neglect or refuse to make the returns and pay the tax herein prescribed or shall refuse to permit the Department, its assistants, agents or representatives appointed by it in writing, to examine the books, records, papers, files and equipment of such person or dealer pertaining to the business made taxable by this Act, or who makes any incomplete, false or fraudulent return hereunder, or who does, or attempts to do, anything whatever to avoid a full disclosure of the amount of business done or to avoid the payment of the whole or any part of the tax or penalties due, or who shall fail to keep and preserve records of lubricating oil manufactured, transported, received, used, sold or delivered or make reports as provided in this Act, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000.00), and in the case the offender is an individual, he may be imprisoned in the county jail not exceeding six months, or both so fined and imprisoned. Provided that in case such violator be other than a natural person, then the principal officer and/or officer or officers responsible for such violation may be punished by such imprisonment. Such penalty shall be in addition to the penalty imposed hereinbefore in Section 11 of this Act.

§ 17. *Dealer's License Required.* After this Act shall go into effect, it shall be unlawful for any dealer to receive, use, sell or distribute any lubricating oil or to engage in the sale of lubricating oil within this State unless such dealer is the holder of an uncanceled license issued by the Department to engage in such business. To procure such license every dealer shall file with the Department an application under oath or affirmation and in such form as the Department may prescribe, setting forth:

(a) The name under which the dealer will transact business within the State of Kentucky.

(b) The location, with street number, address of its principal office or place of business within this State; and if such dealer has more than one place of business within the State, the locations of each place of business.

(c) The name and complete residence address of the owner or the names and adresses of the partners, if such dealer is a partnership, or the names and addresses of the principal officers, if such dealer is a corporation or association; and if such dealer is a corporation organized under the laws of another State, territory or country, it shall also file with such application a certified copy of the certificate or license issued by the Secretary of State of Kentucky showing that such corporation is authorized to transact business in the State of Kentucky. Upon the filing of an application for a license, and concurrently therewith, a bond of the character stipulated and in the amount provided for in Section 18 of this Act shall be filed with the Department. No license shall be issued upon any application unless accompanied by such a bond. In the event that any application for license certificate to transact business as a dealer in the State of Kentucky shall be filed by any person whose license shall at any time heretofore have been canceled for cause by the Department or in case said Department shall be of the opinion that such application is not filed in good faith, or that such application is filed by some person as a subterfuge for the real person in interest whose license or registration shall theretofore have been canceled for cause by said Department, then and in any of said events, the Department, after a hearing, of which the applicant shall have been given five (5) days' notice in writing in which said applicant shall have the right to appear in person or by counsel and present testimony, shall have and is hereby given the right and authority to refuse to issue to such person a license certificate to transact business as a dealer in the State of Kentucky. The application in proper form having been accepted for filing, and the bond having been accepted and approved, the Department shall issue to such dealer a license in the State of Kentucky, subject to cancellation of such license as provided by law. The license certificate so issued by the Department shall not be assignable, and shall be valid only for the dealer in whose name issued, and shall be displayed conspicuously in the principal place of business of said dealer in the State of Kentucky. The Department shall keep and file all applications and bonds with an alphabetical index thereof, together with a record of all licensed dealers.

It shall be the duty of the Department to publish and keep currently up to date a list of licensed dealers and transmit a copy of such list and all revisions thereto to all licensed dealers.

§ 18. *Bond Required.* Every dealer shall file with the Department a bond in the minimum amount of two thousand dollars ($2,000.00) or an amount equal to three times the maximum monthly tax liability whichever shall be less and up to a maximum amount sufficient, in the opinion of the Department, the financial rating and reputation of the company considered, to insure payment to the state of Kentucky of the amount of tax and penalties and interest for which the dealer may become liable, on a form to be approved by the Department and with a surety thereon approved by the Department and upon which such dealer shall be the principal obligor and the State of Kentucky shall be the obligee, conditioned upon the prompt filing of true reports and the payment by such dealer to the Treasurer of the State of Kentucky of any and all lubricating oil excise taxes which are now or which hereafter may be levied or imposed by the State of Kentucky together with any and all penalties and/or interest thereon, and generally upon faithful compliance with the provisions of this Act. In the event that liability upon the bond thus filed by the dealer with the Department shall be discharged or reduced, whether by judgment rendered, payment made or otherwise, or if in the opinion of the Department any surety on the bond theretofore given shall have become unsatisfactory or unacceptable, then the Department may require the dealer to file a new bond with satisfactory sureties in the same amount, failing which the Department shall forthwith cancel the license certificate of said dealer. If such new bond shall be furnished by said dealer as above provided, the Department shall cancel and surrender the bond of said dealer for which such new bond shall be substituted. In the event that upon hearing, of which the dealer shall be given five (5) days' notice in writing, the Department shall decide that the amount of the existing bond is insufficient to insure payment to the State of Kentucky the amount of the tax and any penalties and interest for which said dealer is or may at any time become liable, then the dealer shall forthwith, upon the written demand of the Department file an additonal bond in the same manner and form with a surety thereon approved by the Department to be necessary to secure at all times the payment by such dealer to the State of Kentucky of all taxes, penalties, and interest due under the provisions of this Act, failing which the Department shall forthwith cancel the license certificate of said dealers. Any surety on any bond furnished by any dealer as above provided shall be released and discharged from any and all liability to the State of Kentucky accruing on such bond after the expiration of sixty (60) days from the date upon which such surety shall have lodged with the Department written request to be released and discharged. Provided, however, that such request shall not operate to relieve, release or discharge such surety from any liability already accrued, or which shall accrue, before the expiration of said sixty-day period. The Department shall promptly on receipt of notice of such request notify the dealer who furnished such bond, and, unless such dealer shall on or before the expiration of such sixty-day period file with the Department a new bond with a surety satisfactory to the Department in the amount and form hereinbefore in this Section provided, the Department shall forthwith cancel the license of said dealer. If such new bond shall be furnished by said dealer as above provided, the Department shall cancel and surrender the bond of said dealer for which such new bond shall be substituted.

§ 19. *Cancellation of License.* If any dealer shall at any time file a false monthly report of the data or information required by this Act, or shall fail, refuse or neglect to file the monthly report required by this Act, or to pay the full amount of the tax as required by this Act, the Department may forthwith cancel the license of said dealer and notify such dealer in writing of such cancellation by registered mail to the last known address of such dealer appearing on the files of the Department. The Department is hereby given the power to cancel any license hitherto or hereafter issued to and leader, such cancellation to become effective sixty (60) days from the date of receipt of the written request of such dealer for cancellation thereof or said Department may cancel the license of any dealer upon investigation and sixty (60) days' notice mailed to the last known address of such dealer if it shall ascertain and find that the person to whom such license has been issued is no longer engaged in the receipt, use or sale of lubricating oil as a dealer, and has not been so engaged for the period of six (6) months prior to such cancellation. But no such license shall be canceled upon the request of any dealer until and unless the dealer shall, prior to such cancellation. But no such license shall be canceled upon the request of any dealer until and unless the dealer shall, prior to the date of such cancellation, have paid to the State of Kentucky all excise taxes payable under the laws of the State of Kentucky, together with any and all penalties and fines accruing by reason of any failure on the part of said dealer to make accurate reports as required by this Act and/or to pay such taxes and/or penalties. In the event that the license of any dealer shall be canceled by the Department as hereinbefore in this Section provided, and in the further event that said dealer shall have paid to the State of Kentucky upon the receipt, sale or use of lubricating oil, together with any and all penalties accruing by reason of any failure on the part of said dealer to make accurate reports or to pay said tax and/or penalties, then the State Tax Commission shall cancel and surrender the bond theretofore field by said dealer.

§ 20. *Penalty for Operation without License.* Any person who shall engage in business of selling lubricating oil in the State of Kentucky as a dealer without the holder of an uncanceled license to engage in such business, or who shall, without such license, sell, or use any lubricating oil upon which the tax herein imposed shall not have been reported and paid, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00) or by imprisonment in the county jail for not less than thirty (30) days or more than one (1) year or both so fined and imprisoned in the discretion of the jury. Each day or part thereof during which any person shall engage in business as a dealer without being the holder of an uncanceled license shall constitute a separate offense within the meaning of this Section. Provided that in case such violator be other than a natural person, then the principal officer and/or the officer or officers responsible for such violation may be punished by such imprisonment.

§ 21. *Exchange of Information with Other States.* The Department shall, upon request duly received from the officials to whom are entrusted the enforcement of the lubricating oil tax laws of any other State, forward to such officials any information which it may have in its possession relative to the manufacture, receipt, sale, use, transportation and/or shipment by any person of lubricating oil. Provided, however, this Section shall not apply unless such State extend to this State a similar privilege.

§ 22. *Separability Clause.* The provisions of this Act are severable and if any of its provisions or any penalty provided by this Act shall be held unconstitutional, such provision or the particular penalty held to be invalid shall not affect or impair the remainder of the Act or such part of the penalties as are not held to be invalid and the decisions of the courts shall not affect or impair the remaining provisions of this Act or any of the other penalties anywhere in this Act provided. It is hereby declared as a legislative intent that this Act would have been adopted had any unconstitutional provisions or such invalid penalties not been included therein.

§ 23. *Emergency.* Whereas the present State revenue does not meet the immediate needs of maintenance of the State government, an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor.

Said amendments as offered by the Committee are as follows, viz.:

1. Amend H. B. 44, Section 1, subsection (b), lines 8 and 9, page 1 of the printed bill, by striking out the words ''movable parts of any internal combustion engine, or steam engine, except railroad locomotives, and'' and inserting in lieu thereof the following language: ''pistons and/or cylinders of any internal combustion engine or steam engine except such engines as are operated on rails and on boats engaged in interstate commerce''.

2. Amend H. B. 44, Section 2, by striking out the words and figures ''eight (8c)'' and substituting therefor the words and figures ''four (4c)''.

Amendment No. 1 as offered by the Committee was then agreed to.

Mr. Silvers offered the following amendment by way of substitute to amendment No. 2, as offered by the Committee, viz.:

Amend Committee Amendment No. 2 by substituting therefor the following:

Amend H. B. 44 by striking out the words and figures ''eight (8c)'' wherever same appears and inserting in lieu thereof the words and figures ''four (4c)''.

Said amendment to the amendment was then agreed to.

Amendment No. 2 as offered by the Committee was then agreed to, as amended.

Mr. Ramey moved the Previous Question.

Thereupon the Speaker announced ''Shall the Main Question be now put?''

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Douglas Bolling
Ollie J. Bowen
Wallace Brown
V. O. Chandler
Floyd Clark
George S. Clay
Roy Conway
George W. Dunlap
Howard G. Early
Walter R. Fannin
T. P. Fitzpatrick
G. W. Garrett
Fred A. Gnau
Eugene Gough
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
J. L. McDermott
W. F. McGary
Elmer McGlothen
C. S. Matherly
D. T. Matlack
Duke Mayfield
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
W. R. Tapp
J. J. Thomas
Joseph L. Wall
Henry Ward
John Kirtley, Spkr.
—56

Those who voted in the negative were—

C. W. Anderson, Jr.
H. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Dr. R. A. Byers
Jas. C. Carter
Roscoe Claxon
J. A. Coleman
Herbert Cook
Harry Davis
Sam Dever
Stanley S. Dickson
Garland Embry
James Garnett, Jr.
James T. Hamilton
Thomas W. Hines
John M. Hunnicut
Leslie Larrimore
Robert E. Lee
John B. Mollett
Tyler Munford
Hobart Rayburn
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
S. J. Wagner
L. R. Wells
W. G. Williams
Charles Wylie
—30

Resolved that the title thereof be as aforesaid.

Mr. Ramey moved that the vote by which said bill was passed; be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Dr. Shields moved that a bill entitled:

H. B. 48. An Act concerning revenue and taxation and declaring an emergency.

With Senate amendments thereto.

Be taken up for immediate consideration.

Said motion was agreed to.

Thereupon the House took up for immediate consideration, said bill.

(For bill see House Journal of April 23.)

(For Senate amendments, see House Journal of today, *ante*.)

Mr. Gnau moved that the House refuse to concur in Amendment No. 1 as proposed by the Senate.

Said motion was agreed to.

Mr. Myers moved that said bill with amendments thereto, be laid on the Clerk's desk.

Said motion was agreed to.

Mr. Munford moved that the House do now adjourn to meet again on Monday, May 4, at one o'clock P. M.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Munford and Shields, were as follows, viz.:

Those who voted in the affirmative were—

H. T. Baker
G. M. Ballard
Reuben J. Boling
Dr. R. A. Byers
Jas. C. Carter
George S. Clay
J. A. Coleman
Harry Davis
Garland Embry
Walter R. Fannin
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
Eugene Gough
James T. Hamilton
Thomas W. Hines
Price Holbrook
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
Lloyd MacDonald
T. B. McConnell
W. F. McGary
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
Tyler Munford
Russell O'Neill
Hobart Rayburn
Harry C. Records
Wade H. Riley
W. T. Rollo
Ray O. Shehan
Chester D. Silvers
H. C. Steely
Henry Stewart
R. Van Bever, Jr.
L. R. Wells
Charles Wylie
—42

Those who voted in the negative were—

F. T. Allen
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
V. O. Chandler
Roscoe Claxon
Roy Conway
Sam Dever
George W. Dunlap
Howard G. Early
Ferd A. Gnau
Ben Grogan
W. L. Hampton, Jr.
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Elmer McGlothen
J. L. McDermott
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
L. K. Rice
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
Henry Ward
W. G. Williams
—45

Mr. Garnett moved that the House take up for immediate consideration from the Clerk's desk, a bill entitled:

H. B. 7. (For title see House Journal of today *ante.*)

With Senate amendments thereto.

(For Senate amendments see House Journal of April 22.)

Amendment No. 1 as proposed by the Senate having been previously concurred in,

Amendments Nos. 2 and 4 as proposed by the Senate were then concurred in.

Mr. Myers moved that the House refuse to concur in Amendment No. 3, as proposed by the Senate.

Said motion was agreed to.

And so the House refused to concur in said Amendment No. 3.

Ordered that the Chief Clerk report the action of this House to the Senate.

Mr. Myers moved that the House do now adjourn to meet again on tomorrow at ten o'clock A. M.

Mr. Davis moved that the House do now adjourn to meet again on Monday, May 4, at one o'clock P. M.

Said last named motion was disagreed to.

The yeas and nays being required thereon by Messrs. Davis and Shields, were as follows, viz.:

Those who voted in the affirmative were—

H. T. Baker
G. M. Ballard
Dr. R. A. Byers
Jas. C. Carter
Roscoe Claxon
George S. Clay
J. A. Coleman
Harry Davis
Garland Embry
Walter R. Fannin
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Eugene Gough
Ben Grogan
James T. Hamilton
Thomas W. Hines
Price Holbrook
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
D. T. Matlack
G. S. Milam
W. H. Miller
John B. Mollett
Tyler Munford
Russell O'Neill
Hobart Rayburn
Harry C. Records
Wade H. Riley
W. T. Rollo
Ray O. Shehan
P. L. Sidebottom
Chester D. Silvers
H. C. Steely
Henry Stewart
R. Van Bever, Jr.
Henry Ward
L. R. Wells
Charles Wylie

—44

Those who voted in the negative were—

F. T. Allen
W. T. Baker
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
V. O. Chandler
Floyd Clark
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
W. L. Hampton, Jr.
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
T. B. McConnell
J. L. McDermott
John Marshall
C. S. Matherly
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
L. K. Rice
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Dr. B. F. Shields
Bruce Sloan
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
W. G. Williams

—45

The motion as made by Mr. Myers was then disagreed to.

Dr. Shields moved that the House do now recess for thirty minutes.

Said motion was agreed to.

And then the House recessed.

During the thirty minutes recess, the hour of three o'clock P. M. having arrived, and no motion having been made to extend the day's session indefinitely, the House stood adjourned.

FRIDAY, MAY 1, 1936.

The House was opened with prayer by the Reverend Hampton Adams of the First Christian Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Walter R. Fannin
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey

Hobart Rayburn
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
H. C. Steely
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

Mr. Hammons moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

A message was received from the Senate announcing that they had passed a bill which originated in this House, entitled:

H. B. 49. An Act to repeal Section 7 of Chapter 74 of the Acts of 1926, being an Act relating to revenue and taxation, providing for corporation license tax for certain corporations, etc.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

And that they had passed bills which originated in this House, entitled:

H. B. 51. An Act relating to revenue and taxation of the gross receipts of utilities and declaring an emergency.

With the following amendment thereto as proposed and adopted by the Senate, viz.:

Amend H. B. 51 in Senate by striking out the word ''and'' in line 23 of Section 4 on page 4 and inserting in lieu thereof the word ''or''.

H. B. 53. An Act relating to the licensing of motor vehicle operators and providing for the definition of terms, etc.

With the following amendments thereto as proposed and adopted by the Senate, viz.:

1. Amend H. B. 53 in Senate by striking out the words ''and except those required to produce chauffeur's license under Carroll's Kentucky Statutes, 1930 Editon, Sections 2739g-15 to 2739g-21 inclusive'' in lines 3, 4 and 5 of Section 2 of the printed bill.

2. Amend H. B. 53 by adding the following words after the word ''inclusive'' in line 5, page 15, Section 32 of the printed bill: ''also Sections 2739g-15 to 2739g-21 inclusive in Carroll's Kentucky Statutes, 1930 Edition''.

3. Amend H. B. 53 in Senate by adding the following words at the end of Section 32 of the printed bill: ''Nothing in this Act shall change or repeal the existing laws concerning the licensing of drivers of busses or trucks operating under the department of commissioner of motor transportation.''

4. Amend H. B. 53 by striking out the words ''of motor vehicles'' in line 19 of Section 4 of the printed bill.

5. Amend H. B. 53 by substituting the word ''as'' for the word ''or'' in line 5, Section 6 of the printed bill.

6. Amend H. B. 53 by substituting the figures ''18'' for the figures ''19'' on line 1, page 10 of the printed bill.

7. Amend H. B. 53 by adding after Section 22, the following:

Section 22A. ''The administration of this Act is vested in the Department which may prescribe rules and regulations needed for the enforcement of this Act.''

8. Amend H. B. 53 by adding the following subsection after line 6, page 10 of the printed bill:

"Assault and battery resulting from the operation of a motor vehicle."

9. Amend H. B. 53 in Senate by striking therefrom Sections 21 and 22 thereof, same being on pages 12 and 13 of the printed bill.

10. Amend in Senate, H. B. 53 by striking therefrom Section 29, same being on page 15 of the printed bill.

11. Strike out all of lines 5, 6, 7 and 8 on page 15 and insert "on August 1st, 1936".

12. Amend H. B. 53 in Senate by adding after the period in line 4, Section 12, page 9, the following words:

"Nothing in this Act shall prohibit the applicant from appealing to the department if the Circuit Court Clerk refuses to issue license to said applicant."

Mr. Claxon moved that the privilege of the floor be extended to Mr. Ed. Oldham of Georgetown, Kentucky.

Said motion was agreed to.

Mr. Conway moved that the privilege of the floor be extended to Messrs. Pem Stratton, O. A. Stump and G. R. Blackburn.

Said motion was agreed to.

Mr. Fannin moved that the privilege of the floor be extended to Mr. Charles Ross of Elliott County.

Said motion was agreed to.

A message was received from the Senate announcing that they had passed a resolution which originated in this House, entitled:

H. Res. 7. Resolution providing for the payment of the per diem of the late C. E. Evans to his mother, Mrs. Dora Evans.

Ordered that said resolution be delivered to the Enrolling Clerk of this House.

After a time Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, a resolution entitled:

H. Res. 7. (For title see House Journal of today, *ante.*)

Thereupon all other business was suspended, said resolution was read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk deliver said resolution to the Senate.

After a time the Enrolling Clerk delivered the original and enrolled copy of said resolution, duly signed by the President of the Senate, into the possession of the Chief Clerk of the House.

Ordered that the Chief Clerk deliver said resolution to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

Mr. Joe E. Robinson moved that a bill entitled:

H. B. 36. An Act to raise revenue by requiring peddlers truckers to pay fees and charges, to define the term peddler trucker, etc.

Be recommitted to the Committee on Revenue and Taxation No. 1.

And that the Journal of the House be expunged as to the first and second readings of said bill.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. Milam and Garnett, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
G. M. Ballard
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
J. A. Coleman
Herbert Cook
Sam Dever
Walter R. Fannin
H. Myer Garner
G. W. Garrett
James T. Hamilton
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
T. B. McConnell
W. F. McGary
Elmer McGlothen
John Marshall
D. T. Matlack
J. C. Nickell
Russell O'Neill
J. C. Ramey
L. K. Rice
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
W. R. Tapp
J. J. Thomas
Joseph L. Wall
W. G. Williams

—45

Those who voted in the negative were—

C. W. Anderson, Jr.
W. T. Baker
Wallace Brown
Roy Conway
George W. Dunlap
James Garnett, Jr.
Ferd A. Gnau
Eugene Gough
Ben Grogan
C. L. Hammons
Ben W. Johnson
Duke Mayfield

G. S. Milam
W. H. Miller
John B. Mollett
Tyler Munford
Rodes K. Myers
Mel Petry
Hobart Rayburn
Ray O. Shehan
H. C. Steely
Dr. H. S. Swope
Henry Ward
L. R. Wells
Charles Wylie

—25

Mr. W. T. Baker offered the following resolution, viz.:

H. Res. 8. Whereas, Representatives of Louisville and Kentucky distilling interests have stated openly to some members of this House, including the gentleman from Shelby, that these interests have been directly solicited for bribes by three or four members of this House of Representatives in connection with their votes on House Bill No. 3, a bill increasing the production tax on liquor distilled in this State, and

Whereas, At least two of the major executives of this State have stated in person to the author of this resolution that they have likewise been informed directly of these solicitations of bribes,

Be it Resolved by the House of Representatives, the Senate Concurring therein: That the Speaker appoint a committee of five members of this House of Representatives to make a thorough investigation of all the facts in connection with these charges and to give this House a full and complete report of its findings, together with recommendations as to the punishment of any who may be found guilty.

Be it Further Resolved, That this Committee be fully empowered to summon and compel the attendance of witnesses to swear witnesses and to subpoena, telephone and telegraph records and other papers and documents that will aid in this investigation.

Mr. Munford offered the following amendment to said resolution, viz.:

Amend Resolution by adding the following:

"There is hereby appropriated out of the general fund the sum of $150,000.00 to conduct said investigation."

Said amendment was disagreed to.

Mr. Gnau moved that said resolution be laid on the table.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Gnau and W. T. Baker were as follows, viz.:

Those who voted in the affirmtaive were—

G. M. Ballard
V. O. Chandler
Walter R. Fannin
James Garnett, Jr.
Ferd A. Gnau
J. F. Ladd
Carl Schneider
—7

Those who voted in the negative were—

F. T. Allen
C. W. Anderson, Jr.
W. T. Baker
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
George W. Dunlap
H. Myer Garner
G. W. Garrett
Eugene Gough
Ben Grogan
James T. Hamilton
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
J. H. Jones
O. C. Jones
R. T. Kirkman
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
John B. Mollett
Rodes K. Myers
J. C. Nickell
Russell O'Neill
J. C. Ramey
Hobart Rayburn
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
Carl Scheben
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
H. C. Steely
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
Joseph L. Wall
Henry Ward

L. R. Wells	W. G. Williams	Charles Wylie	—60

Said resolution was then adopted.

Mr. Clay offered the following resolution, viz.:

WHEREAS, A Resolution introduced by Mr. Clay, of Henderson County, adopted during the Regular Session of the General Assembly 1936, directed the State Librarian to secure eight copies of the 1933 Supplement of the Carroll's Kentucky Statutes for the use of the members of the House, and,

Wheras, A Resolution offered by Senator Rives was adopted in the Senate on January 8th, 1936, authorizing the State Librarian to secure three copies of the 1930 Kentucky Statutes, eight copies of the 1933 Supplement, eight copies of all Acts of the General Assembly since 1933, and one copy of the Kentucky Code of Practice, and,

Whereas, Statement has been presented the Chief Clerk of the House for Eighty Dollars ($80.00) to pay for books purchased for the House, and,

Whereas, Statement has been presented the Chief Clerk of the Senate for Two Hundred Dollars ($200.00) to pay for books purchased for the use of the Senate, and,

Whereas, The Auditor of Public Accounts has refused to issue his warrant to pay these bills because the Resolutions did not state from what fund the money is to be paid: Therefore,

Be it Resolved by the House of Representatives, the Senate Concurring therein, That the Chief Clerk of the respective Houses shall certify to the Auditor of Public Accounts a copy of the Resolution and a statement of the bills rendered him for aforesaid mentioned books, and that the Auditor be directed to draw his warrant for same and charge it to Legislative Expense Fund.

Said resolution was agreed to.

Dr. Shields moved that the Rules of this House be suspended for the purpose of taking up for consideration the Orders of the Day.

Said motion was agreed to.

Thereupon the House took up for consideration from the Orders of the Day a bill entitled:

H. B. 63. An Act relating to revenue and taxation of certain motor fuels and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* Whenever used in this Act, unless the context requires otherwise,

(a) "Motor vehicles" shall mean and include all vehicles, engines, machines or mechanical contrivances which are propelled by internal combustion engines or motors;

(b) "Fuels" shall mean and include all combustible gases and liquids used in an internal combustion engine for the generation of power to propel vehicles of any kind or character on the public highways except such fuels as are subject to the tax imposed by House Bill No. 41, Special Revenue Session of 1936;

(c) "Public highways" shall mean and include every way or place, of whatever nature, generally open to the use of the public as a matter of right for the purposes of vehicular travel and notwithstanding that the same may be temporarily closed for the purpose of construction, reconstruction, maintenance or repair;

(d) "Person" shall mean and include any individual, association, firm, co-partnership, corporation, receiver, trustee, conservator or other officer appointed by any State or Federal Court;

(e) "Use" shall mean and include, in addition to its original meaning, the receipt of fuel by any person into a motor vhicle or into a receptacle from which fuel is supplied by such person to his own or other motor vehicles;

(f) "User" shall mean any person who uses and/or consumes fuel within this State in an internal combustion engine for the generation of power to propel vehicles of any user holding an unrevoked license issued by this State;

(g) "Duly licensed user" shall mean and include any kind or character on the public highways of this State;

(h) "Department" shall mean Department of Revenue of the Commonwealth of Kentucky.

§ 2. *Levy of tax and exemptions.* An excise tax of five cents (5c) per gallon is hereby imposed on the use of such fuel by any person within this State only when such fuel is used in an internal combustion engine for the generation of power to propel motor vehicles of any kind or character on the public highways of Kentucky to be computed in the manner hereinafter in this Act set forth and paid by the users. Provided, however, that no tax is hereby imposed on the use of any fuel if the Constitution of the United States or of this State precludes such tax.

§ 3. *Allocation of tax.* All taxes collected under the provisions of Section 2 of this Act shall be covered into the State treasury and shall be used only to defray the expenses of the administration of this Act and for the purpose of construction, reconstruction, maintenance and repair of roads, highways and bridges.

§ 4. *Application for license; contents; licensing of users.*

A. It shall be unlawful for any user to use or consume any fuel within this State unless such user is the holder of an uncanceled license issued by the Department. To procure such license, every user shall file with the Department an application under oath and in such form as the Department may prescribe setting forth the name and address of the user.

B. Concurrently with the filing of an application for a license, every user shall file with the Department a bond of the character stipulated and in the amount provided for in Section 5 of this Act. No license shall be issued upon any application unless accompanied by such a bond.

C. In the event that—

(1) Any application for a license to use fuel as a user in this State shall be filed by any person whose license shall at any time theretofore have been canceled for cause by the Department, or in case

(2) Said Department shall be of the opinion that such application is not filed in good faith, or that

(3) Such application is filed by some person as a subterfuge for the real person in interest whose license or registration shall theretofore have been canceled for cause by said Department.

Then and in any of said events the Department after a hearing of which the applicant shall have been given five (5) days notice in writing and in which said applicant shall have the right to appear in person or by counsel and present testimony, shall have and is hereby given the right and authority to refuse to issue to said person a license certificate in this State.

D. Upon the filing of the application for a license, a filing fee of one dollar ($1.00) shall be paid to the Department.

E. The application in proper form having been accepted for filing, the bond having been accepted and approved and the other conditions and requirements of this section having been complied with, the Department shall issue to such user a license certificate and such license shall remain in full force and effect until canceled as provided in this Act.

F. The license certificate so issued by the Department shall not be assignable and shall be valid only for the user in whose name issued and shall be displayed conspicuously by the user.

G. The Department shall keep and file all applications and bonds with an alphabetical index thereof, together with a record of all licensed users.

§ 5. *Bond required of licensed users.*

A. Every user shall file with the Department a bond

(1) in the minimum amount of $100 and maximum amount of $10,000 on a form to be approved by the Department and

(2) with surety approved by the Department as surety thereon and

(3) upon which such user shall be the principal obligor and this State shall be the obligee,

(4) conditioned upon the prompt filing of true reports and the payment by such user to the Department of any and all fuel excise taxes which are now or which are hereafter levied or imposed by this State, together with any and all penalties and/or interest thereon and generally upon faithful compliance with the provisions of this Act.

B. In the event that the liability upon the bond thus filed by the user with the Department shall be discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if in the opinion of the Department any surety on the bond theretofore given shall have become unsatisfactory or unacceptable, then the Department may require the user to file a new bond with satisfactory sureties in the same form and amount, failing which the Department shall forthwith cancel the license certificate of said user. If such new bond shall be furnished by such user as above provided, the Department shall cancel and surrender the bond of said user for which such new bond shall be substituted.

C. In the event that upon hearing, of which the user shall be given five (5) days' notice in writing, the Department shall decide that the amount of the existing bond is insufficient to insure payment to this State of the amount of the tax and any penalties and interest for which said user is or may at any time become liable, then the user shall forthwith upon the written demand of the Department file an additional bond in the same manner and form with surety thereon approved by the Department in any amount determined by the Department to be necessary to secure at all times the payment by such user to this State of all taxes, penalties, and interest due under the provisions of this Act, failing which, the Department shall forthwith cancel the license certificate of said user.

D. Any surety on any bond furnished by any user as heretofore provided shall be released and discharged from any and all liability to this State accruing on such bond after the expiration of sixty (60) days from the date upon which such surety shall have lodged with the Department a written request to be released and discharged. Provided, however, that such a request shall not operate to relieve, release or discharge such surety from any liability already accrued or which shall accrue, before the expiration of said sixty (60) day period. The Department shall promptly, on receipt of notice of such request, notify the user to furnish such bond and unless such user shall, on or before the expiration of such sixty (60) day period, file with the Department a new bond with surety satisfactory to the Department in the amount and form hereinbefore in this section provided, the Department shall forthwith cancel the license of said user. If such new bond shall be furnished by said user as above provided, the Department shall cancel and surrender the bond of said user for which such new bond shall be substituted.

§ 6. *Tax reports; computation and payment of tax.*

A. For the purpose of determining the amount of tax herein imposed, each user shall, not later than the fifteenth (15th) day of each calendar month, file with the Department on forms prescribed by said Department, monthly reports sworn to by the user which shall include the total number of gallons of fuels used within the State during the next preceding calendar month.

B. The tax at the rate of five cents (5c) per gallon of fuel shall be computed on the number of gallons reported used within the State and shall constitute the amount of fuel tax payable for the next preceding calendar month. Reports required in subsection A of this section shall be accompanied by certified or cashier's check, payable to the State Treasurer of Kentucky for the amount of tax due for such preceding calendar month.

§ 7. *Power of department to cancel licenses; surrender of bond.*

A. If a user shall at any time file a false monthly report of the data or information required of this Act, or shall fail, refuse or neglect to file the monthly report required by this Act or to pay the full amount of the tax as required by this Act, the Department may forthwith cancel the license of said user and notify such user in writing of such cancellation by registered mail to the last known address of such user appearing on the files of the Department.

B. Upon receipt of a written request from any user licensed under this Act to cancel the license issued to such user, the Department shall have the power to cancel such license effective sixty (60) days from the date of such written request, but no such license shall be canceled upon the request of any user until and unless the user shall, prior to the date of such cancellation, have paid to this State all excise taxes payable under the laws of this State, together with any and all penalties, interest and fines accruing under any of the provisions of this Act until and unless the user shall have surrendered to the Department the license certificate theretofore issued to such user. If upon investigation, the Department shall ascertain and find that any person to whom a license has been issued under this Act is no longer engaged in the use of fuel and has not been so engaged for a period of six (6) months, the Department shall have the power to cancel such license by giving such person sixty (60) days' notice of such cancellation mailed to the last known address of such person, in which event the license certificate theretofore issued to such person shall be surrendered to the Department.

C. In the event that the license of any user shall be canceled by the Department as hereinbefore in this section provided and in further event that said user shall have paid to this State all excise taxes due and payable by it under this Act, together with any and all penalties accruing under any of the provisions of this Act, then the Department shall cancel and surrender the bond theretofore filed by said user.

§ 8. *Failure to report and pay tax, penalties provided.*

If any user neglects or refuses to make said return, or pay the tax at the time hereinbefore provided, the amount hereof, with an addition of a penalty of twenty per cent (20%) thereof, with interest at the rate of six per cent (6%) per annum from the date when due until paid, shall be paid on an account settled by the Department, as other taxes are paid, settled and collected; and if collected by proceedings in any court, an additional penalty of twenty per cent (20%) shall be collected as is authorized to be collected under Section 4263 of Carroll's Kentucky Statutes, 1930 Edition, as amended by House Bill No. One, First Extraordinary Session of 1936.

The said twenty per cent (20%) penalty thereon and interest due shall be paid into the State treasury as part of the tax, and the additional twenty per cent (20%) penalty collected by suit shall be distributed as provided in Section 4263 of Carroll's Kentucky Statutes, 1930 Edition, as amended by House Bill No. One, First Extraordinary Session of 1936.

§ 9. *Department may estimate fuel used.*

A. Whenever any user shall neglect or refuse to make and file any report for any calendar month as required by this Act, or shall file an incorrect or fraudulent report, the Department shall determine, after an investigation the number of gallons of fuel with respect to which the user has incurred liability under the fuel tax laws of this State, for any particular month or months and assess and collect the amount of taxes and penlaties payable by the user under this Act accordingly.

B. In any action or proceeding for the collection of the fuel tax and/or any penalties or interest imposed in connection therewith, an assessment by the Department of the amount of the tax due and/or the interest or penalties due to the State shall constitute *prima facie* evidence of the claim of the State, and the burden of proof shall be upon the user to show the assessment was incorrect and contrary to law.

§ 10. *Reports from carriers transporting fuel.*

A. Every railroad company, every street, suburban or interurban railroad company, every pipe line company, every water transportation company, and every common carrier transporting fuel, either in interstate or in intra-state commerce, to points within the State, and every person transporting fuel by whatever manner to a point in this State from any point outside of said State and with the definite knowledge that such fuel is to be used in an internal combustion engine for the generation of power to propel a motor vehicle of any kind or character upon the public highways of this State, shall report under oath to the Department on forms prescribed by said Department of all such deliveries of fuel so made to points within this State.

B. Such reports:

(1) Shall cover monthly periods,

(2) Shall be submitted within fifteen (15) days after the close of the month covered by the report,

(3) Shall show the name and address of the person to whom the delivery of such fuel has actually and in fact been

made and such other reasonable information deemed necessary by the Department.

§ 11. *Retention of records by users.*

A. Each user shall maintain and keep for a period of two (2) years, such record or records of fuel used within this State by such user, together with invoices, bills of lading, and other pertinent records and papers as may be required by the Department for the administration of this Act.

B. Penalty: Any person willfully violating any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not less than one dollar ($1.00) and not more than one thousand dollars ($1,000.00), and costs of prosecution, or to undergo imprisonment for not more than one year, or both in the discretion of the court.

§ 12. *Powers of the Department of Revenue.*

A. The administration of this Act is vested in the Department of Revenue, which may prescribe forms and promulgate rules and regulations needed for the enforcement of this Act.

B. The Department, through a representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment and/or inventory of any person made liable for any tax under the provisions of this Act; to examine witnesses under oath for purposes appropriate for the enforcement of this Act; and to examine the books, records, papers, files, equipment and/or inventory of manufacturers, wholesalers, retailers, or carriers for the pupose of determining whether the Act is being violated.

C. The Department shall have the power to institute legal proceedings by the Attorney General of Kentucky, or any attorney duly authorized by him, for the purpose of ascertaining the amount of tax due and/or enforcing the collection thereof with penalties and interest thereon, and for the pur-

pose of enjoining the operation of the business of the delinquent.

D. The Department may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalty and interest thereon, as set out herein, have an attachment against the property of the person liable for tax or garnishment of his debtors without the execution of bond on the filing of an affidavit showing the nature of the claim, that it is just, the sum which the Department believes the Commonwealth should recover, and any of the grounds provided by the Civil Code of Practice for the issuance of an attachment in civil causes.

§ 13. *Information privileged.*

Any information obtained by the Department or any agent or representative thereof as a result of a report, investigation, or verification herein authorized to be made, shall be confidential and any person divulging any such information except upon order of a court of competent jurisdiction or to an officer of the Commonwealth entitled to receive the same in his official capacity shall be fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500.00.)

§ 14. *Restraining suits.*

No suit shall be maintained in any court to restrain or delay the collection of the tax herein imposed on any grounds whatever but the aggrieved taxpayer shall pay under protest the tax as and when due and may at any time within two (2) years after such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in any action in any court, State or Federal, otherwise having jurisdiction of the subject matter for the recovery of the tax so paid with legal interest thereon from the date of payment. If it can be finally determined that said tax or any part thereof was wrongfully collected for any reason it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected, together with interest thereon; and the Treasurer shall pay the same at once out of the Road Fund of the State in preference to other warrants or claims against the Commonwealth.

Separate suits need not be filed for each separate payment by any taxpayer but recovery may be had in one for all suits heretofore paid or not barred by the limitation of two (2) years herein imposed.

§ 15. *Penalties for failure to make returns, to pay tax, or to permit examination of records.*

Any person who shall fail, neglect or refuse to make the returns and pay the tax herein prescribed, or shall refuse to permit the Department, its assistants, agents or representatives appointed by it in writing, to examine the books, records, papers, files and equipment of such person pertaining to the use of fuel made taxable by this Act, or who makes any incomplete, false or fraudulent return hereunder, or who does, or attempts to do, anything whatever to avoid a full disclosure of the amount of fuel used or to avoid the payment of the whole or any part of the tax or penalties due, or who shall fail to keep and preserve records or make reports as provided in this Act, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000.00), and in the case the offender is an individual, he may be imprisoned in the county jail not exceeding six (6) months, or both so fined and imprisoned. Provided, that in case such violator be other than a natural person then the principal officer and/or the officer or officers responsible for such violation, may be punished by such imprisonment.

§ 16. *Discontinuance as a license user.*

A. Whenever a user ceases to engage in business as a user of fuel within this State it shall be the duty of such user to notify the Department in writing within fifteen (15) days after discontinuance. All taxes, penalties and interest under this Act not yet due and payable under the provisions of this Act shall, together with any and all interest accruing or penalties imposed under this Act, notwithstanding any provisions thereof, become due and payable concurrently with such discontinuance. It shall be the duty of said user to make a report and pay all such taxes, interest and penalties and to surrender to the Department the license certificate theretofore issued to said user by the Department.

B. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall upon conviction thereof be sentenced to pay a fine of not less than fifty dollars ($50.00) nor more than three hundred dollars ($300.00) and costs of the prosecution or to undergo imprisonment for not more than one (1) year or both.

§ 17. *Exchange of information with other states.*

The Department shall, upon request duly received, from the officials to whom are intrusted the enforcement of the fuel tax laws of any other state or the Federal Government, forward to such officials any information which it may have in its possession relative to the manufacturer, receipt, sale, use, transportation and/or shipment by any person of fuel. Provided, however, this section shall not apply unless such state or Federal Government extend to this State a similar privilege.

§ 18. *Separability clause.*

The provisions of this Act are severable, and if any of its provisions or any penalty provided by this Act shall be held unconstitutional, such provision or the particular penalty held to be invalid shall not affect or impair the remainder of the Act or such part of the penalties as are not held to be invalid and the decisions of the courts shall not affect or impair the remaining provisions of this Act or any of the other penalties anywhere in this Act provided. It is hereby declared as a legislative intent that this Act would have been adopted had any unconstitutional provisions of such invalid penalties not been included herein.

§ 19. *Emergency.*

Whereas, the present State revenue does not meet the immediate needs for maintenance of the State government an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor.

Mr. Conway moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays, being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
W. T. Baker
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
V. O. Chandler
George S. Clay
Roy Conway
Sam Dever
Howard G. Early
Walter R. Fannin
H. Myer Garner
Ferd A. Gnau
Eugene Gough
Ben Grogan
C. L. Hammons
W. L. Hampton, Jr.
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall

C. S. Matherly
Duke Mayfield
John B. Mollett
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
L. K. Rice
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
W. G. Williams

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Those who voted in the negative were—

G. M. Ballard
Jas. C. Carter
Floyd Clark
Roscoe Claxon
J. A. Coleman
Herbert Cook
George W. Dunlap
James Garnett, Jr.
G. W. Garrett
Thomas W. Hines
D. T. Matlack
Hobart Rayburn
H. C. Steely
Charles Wylie

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Resolved that the title thereof be as aforesaid.

Mr. Conway moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration a bill entitled:

H. B. 48. An Act concerning revenue and taxation and declaring an emergency.

With amendments thereto as proposed by the Senate.

(For bill see House Journal of April 23.)

(For amendments as proposed and adopted by the Senate, see House Journal of yesterday.)

Mr. Wagner moved that the House refuse to concur in Amendment No. 1 as proposed by the Senate.

Said motion was agreed to.

Amendment No. 2 as proposed by the Senate, was then concurred in.

Ordered that the Chief Clerk report the action of the House to the Senate.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 65. An Act relating to revenue and taxation and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Every person, firm, association or corporation selling or engaged in the business of selling golf clubs, golf balls, tees, or any other appliance used in the game of golf; base balls, baseball bats, catchers masks, chest protectors, gloves or mitts or any other appliance used in the game of baseball; fishing rods, reels, corks or floats, fishing hooks, artificial bait, nets or seines or any other appliance used for the catching or trapping of fish; canoes, motor boats, motor boat engines or outboard engines or any other appliance used in the connection with motor boats and canoes, uniforms used in the game of baseball, basketball, football or tennis or other games of sport; basketballs, footballs or any other appliance used in the games of basketball or football; shotguns of any description, rifles for target practice or otherwise, pistols and the various ammunition and all appliances for target shooting, or trap shooting or sport, or hunting; kodaks and cameras of all descriptions, films and plates, tripods and all other appliances thereto; tennis racquets and nets and all other equipment used in the game of tennis; roller skates and ice skates;

camping equipment such as tents, portable stoves, lamps or lanterns used for camping purposes; folding chairs and camp cots used for camping purposes; gloves for prize fighting, trunks for prize fighting or wrestling; swimming or bathing suits; decoy ducks and collapsible boats used for duck hunting or other kinds of hunting in the Commonwealth of Kentucky shall pay to the Commonwealth of Kentucky a specific tax on said articles so sold, given away, exchanged or bartered at the rate of five cents (5c) on each fifty cents (50c) or a fractional part thereof of the retail selling price thereof up to and including the amount of the purchase price of two hundred dollars ($200.00) and on the purchase price exceeding two hundred dollars ($200.00) at the rate of five cents (5c) on each one dollar ($1.00) or the fractional part thereof, of the retail selling price thereof, but only one sale of the same article shall be used in computing the amount due, excepting such articles that retail for less than ten cents.

§ 2. The tax hereby imposed shall be paid by the dealer of any of the articles mentioned in section one hereof, on the first day of each calendar month on the sales occurring in the preceding month, and such dealer shall keep a daily report of all such sales on a form to be furnished by the Sheriffs of the respective counties of this Commonwealth on or before the date this Act becomes effective, and thereafter on demand by such dealer without charge therefor, said blank form shall be the same form as herein provided for, to be drafted by the State Tax Commission for such daily reports.

§ 3. Every person, firm, association or corporation engaged in the business of manufacturing or distributing any of the articles mentioned in Section 1 of this Act, shall, as a part of the consideration for their privilege to engage in such business in the Commonwealth of Kentucky, file with the State Tax Commission of Kentucky, a monthly report, which report shall show the name and address of the dealer sold, and shall show an itemized list of each and every article sold to said dealer.

§ 4. The Sheriffs in the respective counties of this Commonwealth are hereby designated as agents of the State Tax Commission for the administration of this Act, and the enforcement of the payment of the tax hereon, and the State Tax Commission shall have prepared and furnish the said Sheriffs on or before the date of this Act becomes effective, with the daily report blanks for said dealers, together with the monthly report blanks to be executed by said Sheriffs.

§ 5. The Sheriffs of the respective counties of this Commonwealth on the tenth day of each calendar month, shall, from the daily reports filed with them by said dealers, make and file with the State Tax Commission a monthly report which shall show the names of the dealers in said county, and the total monthly sales of the articles mentioned in Section 1 of this Act, and together therewith shall forward his or their check, payable to the treasurer of the Commonwealth of Kentucky, for the amount of the tax so collected, less two per cent (2%) for compensation for services performed in connection with duties imposed by this Act.

§ 6. All moneys received or collected under the provisions of this Act, shall be deposited in the State Treasury and credited to the general fund, and shall be available for any provisions of which such general fund is made available by law.

§ 7. The State Tax Commission and their employees are hereby authorized and empowered to examine and inspect the merchandise, invoices, books and memorandums of any of said persons, firms, associations or corporations, manufacturing, selling or engaged in the business of selling any of the articles mentioned in Section 1 of this Act, for the purpose of securing information to determine whether or not the provisions of this Act are being fully obeyed, and the tax on such articles fully paid.

§ 8. Any person, firm, association, or corporation who shall fail to obey the provisions of this Act shall be deemed guilty of a misdemeanor, punishable by a fine of not less than ten dollars ($10.00) nor more than one hundred dollars ($100.00) or by imprisonment in the county jail of not less than ten days nor more than ninety days, or may be both so fined and imprisoned in the discretion of the court.

§ 9. The provisions of this Act are severable; if any part, section or sentence thereof shall be held unconstitutional, or invalid, the same shall not affect the validity of any remaining portion of this Act.

§ 10. As used in this Act: The word "person" shall be construed to mean and include persons, firms, associations and corporations.

(b) The word "distributor" shall be construed to mean every person who engages in the business of receiving or importing goods, wares, or merchandise and making the original sale thereof in this state.

(c) The word "dealer" shall be construed to mean and include every person other than a distributor who sells, offers for sale, or engages in the business of distributing or selling goods, wares, or merchandise in this State.

(d) The word "manufacturer" shall be construed to mean and include every person who manufactures, produces, or assembles goods, wares or merchandise and offers same for sale, or engages in the business of distributing or selling said goods, wares or merchandise in this state; and,

(e) The word "sale" shall be construed to mean and include gift, exchange, barter, offer for sale and distribution.

(f) Wherever the words "State Tax Commission" are used in this Act, they shall be construed to mean, "Department of Revenue".

Whereas, the State revenue is not sufficient to balance the State Budget; and,

Whereas, it is necessary that funds be provided immediately, an emergency is hereby declared to exist and this Act shall take effect upon its passage by the General Assembly and approval by the Governor.

Mr. Myers moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Myers moved that the vote by which the Previous Question was ordered, be reconsidered.

Said motion was agreed to.

Mr. Clay moved that said bill be laid on the Clerk's desk.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 13. An Act relating to Revenue and Taxation and providing for the granting and extension of teachers' certificates in the Commonwealth of Kentucky; the length of time and by whom granted and extended, providing for the payment of fee in connection with the granting and extension of same.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That certificates issued to any teacher, which certificate expires in the year 1936, shall be extended two years upon its expiration and such extension shall be made or issued by the department of certification of the State Department of Education upon application of the teacher, together with a signed statement from the superintendent of the county or city in which said teacher making such application taught certifying that said teacher had taught either in the school years 1932-1933 or the school years 1933-1934 or the school years 1934-1935 or the school years 1935-1936; provided, however, such application shall be accompanied by a fee of Five Dollars ($5.00) to be collected by the Department of Education and delivered to the State Treasurer to be credited to the General Expenditure Fund.

Any person who has taught or been in the school work for twenty years or more prior to the effective date of this act shall be entitled to a certificate to teach in any of the elementary schools of this state for a period of three years, and if any person to whom such certificate is issued has taught at least two (2) years during the life of said certificate, he or she will be entitled to a removal thereof for three (3) years and for each three (3) years thereafter provided each application for the certificate or renewal thereof be accompanied with a fee of Five Dollars ($5.00) to be collected by the Board of Education and delivered to the State Treasurer to be credited to the General Expenditure Fund.

Any person who has taught twenty (20) consecutive years prior to the effective date of this act shall have a certificate issued for life provided such application shall be accompanied by a fee of Ten Dollars ($10.00) to be collected by the Department of Education and delivered to the State Treasurer to be credited to the General Expenditure Fund.

All laws or parts of laws in conflict herewith are hereby repealed.

Mr. Reuben Boling offered the following amendment to said bill, viz.:

Amend H. B. 13, page 1, Section 1, line 2, by striking out the word "year" and the figures "1936" and substituting therefor the following words and figures: "years 1936 and 1937".

Said amendment was agreed to.

Mr. Mollett offered the following amendment to said bill, viz.:

Amend H. B. 13 by striking from line 24, page 2, of the printed bill, the word "consecutive" after the figures "20" and before the word "year" and also by striking the word "removal" in line 18, page 2, after the word "a" and before the word "thereof" and inserting in lieu thereof the word "renewal".

Said amendment was agreed to.

Mr. Myers raised the point of order that said bill was not germane under the call of the Governor for this Special Revenue Session.

The Speaker announced that the question as whether or not the bill was germane was one for the House to decide.

The question being taken thereon, it was decided in the affirmative.

Mr. Mollett moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays, being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
H. T. Baker
W. T. Baker
G. M. Ballard
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Jas. C. Carter
V. O. Chandler
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Walter R. Fannin
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Ben Grogan
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
Duke Mayfield
W. H. Miller
John B. Mollett
Tyler Munford
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
L. K. Rice
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
H. C. Steely
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
L. R. Wells
Charles Wylie

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There voted in the negative—

Rodes K. Myers —1

Resolved that the title thereof be as aforesaid.

Mr. Mollett moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Myers moved that a bill entitled:

H. B. 65. An Act relating to revenue and taxation, which was laid on the Clerk's desk on today, be recommitted to the Committee on Revenue and Taxation No. 1 and when reported, it retain its place in the Orders of the Day.

Said motion was agreed to.

The House took up for consideration a bill entitled:

H. B. 51. An Act relating to revenue and taxation of the gross receipts of utilities and declaring an emergency.

With amendment thereto as proposed by the Senate.

(For bill see House Journal of April 24.)

(For amendment as proposed by the Senate see House Journal of today, *ante.*)

Said amendment was then concurred in.

Said bill was then rejected, as amended, having failed to receive a majority necessary under the Rules of this House.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
W. T. Baker
Douglas Bolling
Wallace Brown
V. O. Chandler
Floyd Clark
Roscoe Claxon
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap

Walter R. Fannin
H. Myer Garner
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
Ira W. Hulette
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
T. B. McConnell
Elmer McGlothen
John Marshall
C. S. Matherly
W. H. Miller
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
Bruce Sloan
W. R. Tapp
J. J. Thomas
Joseph L. Wall
W. G. Williams

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Those who voted in the negative were—

H. T. Baker
G. M. Ballard
Reuben J. Boling
Ollie J. Bowen
Jas. C. Carter
George S. Clay
J. A. Coleman
Howard G. Early
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Ben Grogan
James T. Hamilton
C. L. Hammons
Thomas W. Hines
Lloyd MacDonald
Duke Mayfield
John B. Mollett
Tyler Munford
Russell O'Neill
Hobart Rayburn
Ray O. Shehan
P. L. Sidebottom
H. C. Steely
Dr. H. S. Swope
Henry Ward
L. R. Wells
Charles Wylie

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Mr. Gnau moved that the vote by which said bill was rejected be reconsidered and that said bill be laid on the Clerk's desk.

Said motion was agreed to.

Mr. Myers, of the Committee heretofore appointed to investigate public properties, offered the following report, viz.:

To the Governor of the Commonwealth of Kentucky, the Department of Public Property and the General Assembly of the Commonwealth:

The committee on the investigation of the condition of public properties has completed its inspection and investigation of the condition of the Executive Mansion and makes the following report:

The committee first began its inspection of the Mansion on February 12, and finds that the interior of the building is in very bad condition. This condition can be attributed to two original causes, (1) dampness, as a result of an exterior condition hereinafter mentioned, and (2) termites, which have infested the Mansion building and have left "shell" woodwork. As a result, a considerable part of the interior woodwork of the Mansion must be replaced, and that within the ballroom being hand-carved for decorative purposes, must be specially ordered. In addition to this bad condition of the woodwork throughout the Mansion and as a result of the dampness, the plaster ceilings of every room, with one or two exceptions, must be replaced, and, in many instances, the plaster walls. The plumbing is in very poor condition, resulting in leaks from the second to the first floor, and the entire building must be repainted.

We also find much of the electrical wiring exposed, with insulation gone, presenting a constant fire hazard.

A brief description of the condition of each room and furnishings thereof is as follows:

Ball Room.—Woodwork should be enameled. Cracks all repaired and pointed up. Walls should be repaired and painted. Plaster relief ornamentation should be replaced. Relief decoration should be done properly, as a good deal of it is falling from the walls. Ceilings must be canvassed and painted. Floors should be refinished. The present chairs could be used if refinished. Draperies should be replaced.

State Dining Room.—Ceiling very bad, should be canvassed. Old paint removed and plaster repaired. Woodwork should be enameled, bad nicks and cracks repaired. Walls should be painted and panels should have some decorative effect. Furniture unsuitable in style; the table is about to fall apart and can hardly be used for State functions; it is impossible to get right linens for it because of the size. Draperies need replacing soon.

State Reception Room.—Ceiling has been done in last two years but bad job; walls and woodwork have also been done, but either for economy or lack of knowledge, paint just laid on without any attempt to bring out the period of the room by glazing or even average decorating. This room will not require as much as the other rooms, but should be done right.

Governor's Drawing Room.—Ceiling very bad, must be canvassed and painted. Woodwork needs enameling and cracks pointed up. Walls should be painted and glazed. Has been done not so long ago, but just white paint laid on heavy and heavy stipple to make one coat cover as far as possible. All will peel off in only a short while. Room should be glazed to bring out ornamental relief. The furniture is bad. There are two good tables and satisfactory lamps and accessories. The other furniture consists of a set of two settees, arm upholstered chairs and side upholstered chairs, hidden by worn out slip covers, all of which is not worth renovating.

Governor's Dining Room.—Walls need refinishing and the ceilings canvassing. The furniture is bad and rug should be replaced. A table of sentimental value can be used elsewhere. Good mirror. Draperies worn out.

Morning Room.—Sould be converted into livable room. Needs everything complete and even remodeling. Windows should be made to open and close.

First Floor Hall and Waiting Rooms; First and Second Floors.—Wall paper needs cleaning; woodwork needs at least one coat of enamel and nicks touched up. Ceilings need recanvassing. Rugs can still be used as well as furniture, if refinished and reupholstered, but some new furniture needed.

Second Floor: Master Bedroom.—Furniture fairly new and with reupholstering of chairs and re-draping of dressing table should be used in guest room. New rug, draperies, glass curtains, furniture, lighting fixtures and decorations needed. Rug satisfactory. (This room now occupied by Mrs. Chandler.)

Master Bed Room.—New furniture, draperies, glass curtains, decorating and lighting fixtures needed. Rug satisfactory. (This room now occupied by Governor Chandler.)

Guest Room No. 1.—New rug, furniture, draperies, rugs, lighting fixtures, decoration needed.

Guest Room No. 2 (*Front*).—New furniture, draperies, rugs, lighting fixtures, decorations needed.

Guest Room No. 3 (*Front*).—New furniture, draperies, rugs, lighting fixtures and decoration needed.

All second floor ceilings in bad condition and should be treated in the same manner as the first floor ceilings. Nicks in woodwork should be repaired, touched up and given coat of enamel, properly applied. All walls should be newly decorated. All Bathrooms (5), Lavoratory off Powder Room, Coat Closets, and Woman's Dressing Room should be completely decorated. Powder Room should be completely refurnished.

Basement.—The entire basement should be remodeled to provide a usable kitchen. The laundry should be moved and a gymnasium and recreation room provided. The kitchen equipment is inadequate and worn out. All this area, including basement corridor and lavoratory, the state serving room in basement and on first floor and the family sewing room on first floor, should be painted. Floors should be laid in kitchen and gymnasium, because of kitchen dampness, in tile.

Third Floor.—In the past and at the present time, the third floor has been used as servants' quarters, requiring the servants to come through the part of the house occupied by the Governor, his family and his guests whenever going to their quarters to retire. This floor can be easily be made into guest rooms with little expense, and servants' quarters provided by construction over the garage.

The committee also has the inventory of the furnishings, including china, linens, and silverware, and said inventory is filed with the copy of the report delivered to the Department of Public Property.

After making the investigation into the condition of the Mansion, the committee notified several contractors and interior decorators and numerous propositions were submitted. The Committee has given each of these due consideration. Some of the propositions were not complete, but dealt with the furnishings of the Mansion or with the repair of the plumbing and other details.

After giving the mater consideration, the committee recommends to the Department of Public Property and to the State Purchasing Agent that immediate steps be taken to repair the exterior and interior of said building and to provide plumbing repairs and additions, heating repairs, electrical repairs, complete kitchen equipment, and all painting, decorating, plastering, furniture, rugs, and draperies that are necessary and recommends that a contract for such work be entered into with J. R. Hales, Jr., of Ft. Thomas, Kentucky, who has submitted the best proposals for the complete repair, decoration and furnishing of the Mansion and the best and lowest bid therefor. The said proposal and bid is filed with the copy delivered to the Department of Public Property.

The total cost of all the work, material to be furnished, furniture, et cetera, to be purchased should not exceed the total sum of $40,000.00 and to whomever the contract is awarded, the payment therefor should be divided one-half in the fiscal year ending June 30, 1937, and one-half in the fiscal year ending June 30, 1938, provided, however, that if there is any sum in the Public Buildings fund for the fiscal year ending June 30, 1936, such sum be applied by the Department of Public Property on the cost of the repair of the Mansion.

The Committee realizes that the sum recommended to be expended at this time, which will approximate between $35,000 and $40,000, seems rather large, but it is a necessary expenditure to repair properly the Mansion and to place it in a livable condition and to provide furnishings and fixtures suitable for the Executive Mansion of the Commonwealth. The condition of the building is such that immediate action should be taken by the Department of Public Property for the repair thereof, and we recommend that the Department, as soon after the receipt of this report as practicable, meet and award such contract to the person recommended by this committee.

The Committee does not desire to assume prerogative of the Department of Public Property or of the State Purchasing Agent, but feels that having given the matter study for some two months and having investigated the various contractors and their proposals, it is advised as to the nature of the work to be done and the person capable of performing the work in a suitable and satisfactory manner.

Respectfully submitted.

Rodes K. Myers.
Joe E. Robinson.
John L. McDermott.
B. F. Shields.
Elmer McGlothen.
Franklin Rives.
Chester Silvers.
J. M. Rose.
John T. Murphy.

Ordered that said report be filed.

Mr. Brown moved that the House do now adjourn to meet again on Monday, May 4, at one o'clock P. M.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Munford and Garnett, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
W. T. Baker
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Roscoe Claxon
George S. Clay
Roy Conway
Sam Dever
Howard G. Early
W. L. Hampton, Jr.
Clyde S. Howard
Ira W. Hulette
J. H. Jones
R. T. Kirkman
J. F. Ladd
T. B. McConnell
W. F. McGary
John Marshall
Duke Mayfield
W. H. Miller
Rodes K. Myers
J. C. Nickell
J. C. Ramey
Wade H. Riley
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Bruce Sloan
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
W. G. Williams
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Those who voted in the negative were—

H. T. Baker
G. M. Ballard
Jas. C. Carter
V. O. Chandler
Floyd Clark
J. A. Coleman
Herbert Cook
Stanley S. Dickson
George W. Dunlap
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
James T. Hamilton
Thomas W. Hines
Price Holbrook
Ben W. Johnson
O. C. Jones
Lloyd MacDonald
Elmer McGlothen
C. S. Matherly
D. T. Matlack
John B. Mollett
Tyler Munford
Russell O'Neill
Mel Petry
A. W. Pfeiffer
Hobart Rayburn
Ray O. Shehan
P. L. Sidebottom
H. C. Steely
Dr. H. S. Swope
R. Van Bever, Jr.
Henry Ward
L. R. Wells
Charles Wylie
—38

Mr. McGlothen moved that the House do now adjourn to meet again on Tuesday, May 5, at two o'clock P. M.

Said motion was agreed to.

And then the House adjourned.

TUESDAY, MAY 5, 1936.

The House was opened with prayer by Mr. Carl Scheben of the County of Campbell.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider

Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
W. G. Williams
Charles Wylie
John Kirtley, Spkr.

Mr. Shehan moved that the reading of the Journal of Friday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Gnau moved that the session of today be extended indefinitely.

Said motion was agreed to.

A message was received from the Senate announcing that they had passed bills which originated in this House entitled:

H. B. 41. An Act relating to revenue and taxation of gasoline and repealing certain sections and declaring an emergency.

H. B. 54. An Act relating to revenue and taxation and declaring an emergency.

Ordered that said bills be delivered to the Enrolling Clerk of this House.

And that they had refused to recede from an amendment No. 3 heretofore proposed and adopted by the Senate to a bill which originated in this House, entitled:

H. B. 7. An Act requiring auctioneers doing business in the State of Kentucky, either residents or non-residents of the said State, to obtain a license before doing any of the said business, etc.

(For bill and amendment as proposed and adopted by the Senate, see House Journal of April 30.)

And that they had appointed a Committee on Conference and respectfully request that the House appoint a like committee on the part of the House to settle the differences between the two houses.

Mr. Dunlap moved that the privilege of the floor be extended to Mr. Paul Jackson of Versailles, Kentucky.

Said motion was agreed to.

Mr. McConnell moved that the privilege of the floor be extended to Mr. Childress of Caldwell County.

Said motion was agreed to.

Mr. Claxon moved that the privilege of the floor be extended to Mr. O. G. Moore.

Said motion was agreed to.

Dr. Shields moved that the Rules of this House be suspended and that a bill entitled:

H. B. 64. An Act relating to revenue and taxation, repealing, amending and re-enacting Section 5 and Section 12 of Chapter 26 of the Acts of the Special Session of 1934.

Be recommitted to the Committee on Revenue and Taxation No. 1 and when reported that said bill retain its place in the Orders of the Day.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 56. An Act to repeal, amend and re-enact Chapter one hundred fifty-one (151) of the Acts of the General Assembly of the Commonwealth of Kentucky of 1932 now codified as Section 4238 of Baldwin's 1933 Supplement to Carroll's Kentucky Statutes, "being an Act relating to revenue and taxation so as to increase the state tax on the recording of certain instruments and marriage licenses".

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Chapter one hundred fifty-one (151) of the Acts of the General Assembly of the Commonwealth of Kentucky of 1932 now codified as Section 4238 of Baldwin's 1933 Supplement to Carroll's Kentucky Statutes, "being an Act relating to revenue and taxation so as to increase the state tax on the recording of certain instruments and marriage licenses", be and the same is hereby repealed, amended and re-enacted so that said section as amended and re-enactd shall read:

(a) There is imposed a tax of four dollars ($4.00) on each verdict of a petit jury in civil cases in circuit court;

(b) There is imposed a tax of three dollars and fifty cents ($3.50) on each marriage license;

(c) There is imposed upon the filing and registering of a plat and certificate of survey, and issuing and recording patent thereon one charge which shall be paid before the survey is filed, but not to apply to a survey heretofore filed in the register's office, a tax of two dollars and fifty cents ($2.50) for each survey consisting of ten (10) acres or less, and a tax of five dollars ($5.00) for each survey in excess of ten (10) acres;

(d) There is imposed a tax of two dollars ($2.00) on each appeal to the Court of Appeals;

(e) There is imposed a tax of one dollar ($1.00) on each deed or power of attorney to convey real or personal estate;

on each mortgage or conveyance of personal property; on each lien or conveyance of coal, oil, gas or other mineral right or privilege;

(f) There is imposed a tax of one dollar ($1.00) for issuing a land warrant, for each official certificate with seal of office affixed;

(g) There is imposed a tax of fifty cents (50c) as follows: On each original action or proceeding in the circuit court, commencing with or without orignal process, and on each original action or proceeding in other courts, when the amount in controversy, exclusive of interest and costs, exceeds fifty dollars ($50.00); and on each appeal to the circuit or quarterly court and on each traverse or forcible entry or detainer and on each proceeding to reverse a judgment;

(h) There is imposed a tax of fifty cents (50c) on the seal of court required by law to keep a seal except for the purpose of issuing the license authorized by the State;

(i) There is imposed a tax of fifty cents (50c) for a copy of a plat; for a copy of a course and distances of any patent or survey; and for a copy of an entry or land warrant;

(j) There is imposed a tax of twenty-five cents (25c) for filing a caveat; for filing a copy of judgment of a court in a case of a caveat, mandamus or other proceeding affecting the land office, or the duties of the register; and for a copy of an assignment;

(k) There is imposed a tax of two cents (2c) for each twenty words of: a copy of a caveat; a copy of any writing not specifically provided for.

Said tax shall be due and payable when said processes or instruments are filed or issued, or copies thereof furnished.

§ 2. All revenues derived under the provisions of this Act shall be covered into the State Treasury and credited to the General Expenditure Fund.

§ 3. Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State government and its agencies an emergency is declared to exist and this Act shall become a law and be effective on its passage and approval by the Governor.

Mr. McGary offered the following amendment to said bill, viz.:

Amend H. B. 56 by adding after the semicolon following the word "privilege" in line 24, Section 1, page 2 of the printed bill, the following words: "but no tax shall be paid on any chattel mortgage unless the amount thereof exceeds two hundred ($200.00) dollars;".

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provision of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Garland Embry
Walter R. Fannin
T. P. Fitzpatrick
H. Myer Garner
G. W. Garrett
Ferd A. Gnau
James T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore

Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
C. S. Matherly
D. T. Matlack
Duke Mayfield
John B. Mollett
W. E. Mull
Rodes K. Myers
Russell O'Neill
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
W. G. Williams
Charles Wylie

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Those who voted in the negative were—

Henry H. Allen
Ollie J. Bowen
James Garnett, Jr.
Eugene Gough
John Marshall
W. T. Rollo
H. C. Steely

—7

Mr. Clay offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 56 by adding at the end thereof the following words: "and declaring an emergency".

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. McGary moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Clerk's desk, a bill entitled:

H. B. 60. An Act providing for licensing raw fur dealers.

With amendments heretofore adopted by the House.

(For bill and amendments see House Journal of April 30.)

Mr. Clay moved that the vote by which the Previous Question was ordered on said bill on April 30, be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Garrett offered the following amendments, to said bill, viz.:

1. Amend H. B. 60, on page 2, Section 1, subsection (e), line 16, by striking out all of subsection (e) and substituting in lieu thereof the following:

(e) ''Local Dealer'' shall mean and include any person who buys raw furs in any county in the State in quantities not in excess of one thousand dollars ($1,000.00) and over fifty dollars ($50.00) per annum.''

Amend H. B. 60, Section 2, page 2, line 7, by striking the word ''resident''.

Amend H. B. 60, Section 1, page 1, subsection (d), lines 14 and 15, by striking out the words and figures ''two thousand ($2,000)'' and substituting in lieu thereof the words and figures ''one thousand ($1,000)''.

Said amendments were each and severally agreed to.

Mr. Kirkman moved that said bill be laid on the table.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Kirkman and McCarthy, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
H. T. Baker
G. M. Ballard
Ollie J. Bowen
Dr. R. A. Byers
J. A. Coleman
Herbert Cook
Sam Dever
Walter R. Fannin
James Garnett, Jr.
Eugene Gough
C. L. Hammons
Clyde S. Howard
R. T. Kirkman
Robert E. Lee
M. T. McCarthy
John Marshall
D. T. Matlack
J. C. Ramey
L. K. Rice
Joe E. Robinson
John C. Robinson
W. T. Rollo
Chester D. Silvers
Henry Ward

—25

Those who voted in the negative were—

Henry H. Allen
C. W. Anderson, Jr.
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Wallace Brown
Roscoe Claxon
George S. Clay
Roy Conway
Howard G. Early
Garland Embry
T. P. Fitzpatrick
H. Myer Garner
G. W. Garrett
James T. Hamilton
W. L. Hampton, Jr.
Thomas W. Hines
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
J. F. Ladd
Leslie Larrimore
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
C. S. Matherly
Duke Mayfield
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
Russell O'Neill
Mel Petry
A. W. Pfeiffer
Hobart Rayburn
Harry C. Records
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
W. G. Williams
Charles Wylie

—55

Mr. McConnell moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Ques- be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays, being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

B. F. Bedford
Reuben J. Boling
Douglas Bolling
Wallace Brown
Dr. R. A. Byers
V. O. Chandler
Roy Conway
Howard G. Early
Garland Embry
H. Myer Garner
G. W. Garrett
W. L. Hampton, Jr.
Thomas W. Hines
Clyde S. Howard
John M. Hunnicut
Ben W. Johnson
J. F. Ladd
Leslie Larrimore
M. T. McCarthy
T. B. McConnell
J. L. McDermott
C. S. Matherly
Duke Mayfield
W. H. Miller
W. E. Mull
Rodes K. Myers
Russell O'Neill
Mel Petry
A. W. Pfeiffer
Hobart Rayburn
Harry C. Records
Wade H. Riley
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
H. C. Steely
Dr. H. S. Swope
J. J. Thomas
Joseph L. Wall
Henry Ward
W. G. Williams
Charles Wylie

—45

Those who voted in the negative were—

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
G. M. Ballard
Ollie J. Bowen

Jas. C. Carter
George S. Clay
J. A. Coleman
Herbert Cook
Sam Dever
Walter R. Fannin
James Garnett, Jr.
Eugene Gough
James T. Hamilton
Price Holbrook
Ira W. Hulette
J. H. Jones
R. T. Kirkman
Robert E. Lee
W. F. McGary
Elmer McGlothen
John Marshall
D. T. Matlack
John B. Mollett
Tyler Munford
J. C. Ramey
L. K. Rice
Joe E. Robinson
John C. Robinson
W. T. Rollo
Chester D. Silvers
Henry Stewart
W. R. Tapp
R. Van Bever, Jr.
—35

Resolved that the title thereof be as aforesaid.

Mr. McConnell moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration a bill entitled:

H. B. 51. An Act relating to revenue and taxation of the gross receipts of utilities and declaring an emergency.

With an amendment thereto as proposed and adopted by the Senate.

(For bill see House Journal of April 24.)

(For amendment as proposed and adopted by the Senate, see House Journal of May 1.)

Said amendment was then concurred in.

Said bill was then passed, as amended.

The yeas and nays, being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
W. T. Baker
B. F. Bedford
Douglas Bolling
Wallace Brown
V. O. Chandler
Roscoe Claxon
Roy Conway
Herbert Cook
Sam Dever
George W. Dunlap
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
Fred A. Gnau
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
W. H. Miller
W. E. Mull
Rodes K. Myers
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
W. R. Tapp
J. J. Thomas
Joseph L. Wall
W. G. Williams

—54

Those who voted in the negative were—

G. M. Ballard
Reuben J. Boling
Ollie J. Bowen
Dr. R. A. Byers
Jas. C. Carter
J. A. Coleman
Howard G. Early
James Garnett, Jr.
James T. Hamilton
C. L. Hammons
Thomas W. Hines
Leslie Larrimore
Duke Mayfield
John B. Mollett
Tyler Munford
Russell O'Neill
Hobart Rayburn
Wade H. Riley
Ray O. Shehan
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
S. J. Wagner
Henry Ward
Charles Wylie

—27

Mr. Gnau moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

The House took up for consideration a bill entitled:

H. B. 53. An Act relating to the licensing of motor vehicle operators, etc.

With amendments thereto as proposed and adopted by the Senate.

(For bill see House Journal of April 24.)

(For amendments as proposed and adopted by the Senate, see House Journal of May 1.)

Amendments Nos. 1, 2, 3, 4, 5, 6, 7, 8, 11 and 12 as proposed by the Senate, were then concurred in.

Mr. Schneider moved that the House do now refuse to concur in Amendments Nos. 9 and 10 as proposed by the Senate.

Said motion was agreed to.

And so the House refused to concur in said amendments last above named.

Ordered that the Chief Clerk report the action of the House to the Senate.

A message was received from the Senate announcing that they had receded from an amendment heretofore adopted by the Senate to a bill which originated in this House, entitled:

H. B. 48. An Act concerning revenue and taxation and declaring an emergency.

(For bill and amendments thereto as proposed by the Senate, see House Journal of May 1.)

Said bill was then passed, as amended by Amendment No. 2, as proposed by the Senate.

The yeas and nays, being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
C. W. Anderson, Jr.
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
V. O. Chandler
Roscoe Claxon
Roy Conway
Herbert Cook
Sam Dever
George W. Dunlap
T. P. Fitzpatrick
G. W. Garrett
Fred A. Gnau
Eugene Gough
W. L. Hampton, Jr.
Price Holbrook
Ira W. Hulette
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
J. L. McDermott
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
W. H. Miller
W. E. Mull
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
Henry Ward
W. G. Williams

—55

Those who voted in the negative were—

Henry H. Allen
H. T. Baker
G. M. Ballard
Reuben J. Boling
Dr. R. A. Byers
Jas. C. Carter
George S. Clay
J. A. Coleman
Howard G. Early
H. Myer Garner
James Garnett, Jr.
James T. Hamilton
C. L. Hammons
Thomas W. Hines
Clyde S. Howard
John M. Hunnicut
J. H. Jones
Leslie Larrimore

Robert E. Lee
Lloyd MacDonald
John B. Mollett
Tyler Munford
Russell O'Neill
Hobart Rayburn
Ray O. Shehan
Chester D. Silvers
H. C. Steely
Henry Stewart
Dr. H. S. Swope
R. Van Bever, Jr.
Charles Wylie

—31

Mr. Wagner moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

Dr. Shields moved that the Rules of this House be suspended for the purpose of introducing bills.

Said motion was agreed to.

Thereupon the following bills were introduced, viz.:

By Mr. McDermott:

H. B. 67. An Act relating to revenue and taxation, licensing, contracting, master, journeyman and apprentice painters in counties containing cities of the first and second class.

Said bill is as follows, viz.:

Be it eacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* Wherever used in this Act unless the context requires otherwise:

(a) "Person" shall mean and include individual, partnership, association, corporation and fiduciary.

(b) "Contracting painters" shall mean and include any person or persons who undertake or offer to undertake with another person for compensation, to apply to any building or structure of any kind or to any part thereof on either the exterior or interior thereof either paint, varnish, lacquer, enamel, stain or other substance of a similar nature, wall paper or wall textile fabric prepared for such application.

(c) "Master painter" shall mean and include any person skilled in the work of painting, decorating and paperhanging and in the mixing and tinting of paints and painting materials, planning and designing, who has served at least four years as a journeyman painter or the equivalent thereof and who has obtained a master painter's license in conformity with this act.

(d) "Journeyman painter" shall mean and include any person other than a master or contracting painter who is skilled in the practical work of painting, decorating and paper hanging, who has completed a four-year apprenticeship or the equivalent in the trade under indenture or who has obtained a journeyman painter's license in conformity with this act.

(e) "Apprentice painter" shall mean and include any person sixteen years of age or over who shall enter into any contract of service, expressed or implied, whereby he is to receive from, or through, his employer in consideration for his services, in whole or in part, instruction in the painting, decorating and paper hanging trade. All apprentice painters shall be indentured and shall serve as such for a period of four years before being eligible to make application for a journeyman painter's license.

(f) "Department" shall mean and include the Department of Industrial Relations of the Commonwealth of Kentucky.

(g) "Commissioner" shall mean the Commissioner of the Department of Industrial Relations.

Nothing in this act shall be deemed to make the following persons subject to the license tax herein imposed:

1. Members of maintenance crews in plants or employed by a department of the Government, electric railway or steam railroad, or a public utility, who are required in the course of their regular employment to do painting.

2. Owners and/or lessees of premises, including farmers who desire to do their own painting, and the families and customary employees of such persons.

3. The customary employees of owners and/or lessees of premises who may be called upon to do painting in the course of their regular employment.

§ 2. *Painters' Licenses.* Every person engaged in the business of a contracting painter, master painter, journeyman painter and/or apprentice painter within the meaning of this Act, in counties containing cities of the first and second class, shall obtain a license from the department before engaging in such business and shall pay the following annual license fee:

(a) Contracting and master painters, fifty dollars ($50.00) per year.

(b) Journeyman and apprentice painters, in inital license fee of three dollars ($3.00) and thereafter a yearly renewal license fee of one dollar ($1.00).

Application for license herein provided for shall be made on forms furnished by the department within ninety (90) days after the passage of this act, and the applicant shall furnish certain evidence of his qualifications.

No person shall engage in any of the trades hereinabove set out without first obtaining the license herein provided for.

§ 3. *Powers of the Department.* The administration of this Act is vested in the Department of Industrial Relations which shall have the power to promulgate such rules and regulations as may be deemed necessary for the carrying out of the provisions of this act and shall prescribe such forms and blanks as it may deem necessary and may issue temporary revocable permits where it may deem necessary.

§ 4. *Fair Trade Practices; Handling Complaints and Revocation of License.* The Department may upon its own motion, and shall upon written complaint of any person, investigate the business relations of any contracting painter operating within a county containing a city of the first or second class and temporarily suspend or permanently revoke a license issued under the provisions of this Act if the holder thereof is found guilty of or commits any one or more of the following acts or omissions.

1. Abandonment of any contract without legal excuse.
2. Diversion of funds or property received for prosecution or completion of a specific contract, or for a specific purpose in the prosecution or completion of any contract, and their application or use for any other contract, obligation or purpose.
3. Fraudulent departure from or disregard of plants or specifications in any material respect, without consent of the owner or his duly authorized representative.
4. Willful or deliberate disregard and violation of the building code of the Commonwealth and/or city in which the contracting and master painter is operating, or the safety laws or labor laws of the State.
5. Failure to keep records showing all receipts and disbursements of licensee in all of his transactions as a contracing and master painter as that term is defined in this Act.
6. Misrepresentation of a material fact by applicant in obtaining a license.
7. The doing of a willful, fraudulent act by the licensee as a contractor or master painter in consequence of which another is substantially injured.
8. Bribery in any form, or of any name or nature, whether done or attempted to be done directly or indirectly, with the

purpose and effect of securing an unfair advantage over a competitor.

9. Inducing or attempting to induce the breach of an existing oral or written contract between a comeptitor and his customer, or interfering with or obstructing the performance of a contract by a competitor.

10. Making or offering to make secret rates, charges, terms and conditions or rebates, or making or offering to make in any manner or by any device whatever, more advantageous rates, charges, terms and conditions, with the purpose and effect of securing an unfair advantage over a competitor.

11. Defaming by falsely imputing dishonorable conduct, inability to perform contracts, questionable credit standing, or by other representations or or by disparagement of the grade and quality of service, with the purpose and effect of securing an unfair advantage over a competitor.

12. Selling services and/or goods or materials below cost as determined by the Department. Offering to make substitute bid, prior to the making of an award by a prospective customer, without a commensurate decrease in the requirements of the job with the purpose and effect of securing an unfair advantage over a comeptitor.

13. Offering to lower an original bid at the request of a prospective customer prior to his making an award, without a commensurate decrease in the requirements of the job with the purpose and effect of securing an unfair advantage over a competitor.

14. Failure to promptly pay wages due employees.

Proceedings for the revocation of contracting and master painter's license shall be preceded by thirty days' notice of the charge filed with the Department. The time and place for the hearing of the charges shall be fixed in said written notice served the accused person through the Commissioner. At the hearing the accused shall have the right to be represented by counsel, to introduce evidence and to examine and crossexamine witnesses. The Department shall file a written report of its findings in the record of its proceedings and a copy of said report shall be sent to the accused. In the event that the guilt of the accused be established in the opinion of the majority of the Department, the secretary shall make proper entry in the record of its proceedings declaring that the license has been revoked and shall give notice in writing of such revocation to the holder of the license. At any time after the expiration of six months from the date of such revocation of a certificate, and upon the payment of the prescribed fee and of all costs incurred by the Department as a result of the case at issue by the contracting painter whose license has been revoked, said contracting painter may make application to the Department for a new license, and the said Department, at its discretion and upon evidence which in its opinion would warrant the granting of a new license, may issue such new license.

§ 5. *Penalty.* Any contracting and master painter or journeyman painter or apprentice painter, paper hanger or decorator within the meaning of this Act who shall violate any of the provisions of this Act, or who shall fail or neglect or refuse to obey any lawful order issued by the Department or any judgment or decree made by a court shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifteen dollars nor more than one hundred dollars, or be imprisoned in the county jail not exceeding thirty days for each and every violation thereof, or by both a fine and jail imprisonment at the discretion of the court.

§ 6. *Constitutional Observance.* The sections of this Act and every part of such sections are hereby declared to be independent sections and parts of sections, and the holding of any section or part thereof to be void or ineffective shall not affect any other section or part of a section thereof.

§ 7. *Disposition of Revenue.* All revenue collected under the provisions of this Act shall be covered through the

Department of Industrial Relations into the State Treasury and credited to the General Expenditure Fund.

§ 8. *Emergency.* Whereas, the present State revenue does not meet the immediate needs of the maintenance of the Government and its agencies, an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor.

By Mr. Schneider:

H. B. 68. An Act relating to revenue and taxation, repealing, amending, modifying, clarifying and re-enacting certain sections of House Bill 37, as passed by both Houses and not yet approved or disapproved by the Governor, and imposing a tax upon wine sold in containers of less than one-fifth gallon in size and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 1 of House Bill 37, reading as follows: "There is hereby imposed a tax of seven cents (7c) upon the sale or distribution by gift or sale of spirituous liquors in containers of half pint and less in size, except as hereinafter provided", is repealed, amended and re-enacted so that re-enacted it shall read as follows: "There is hereby imposed a tax of seven cents (7c) upon the sale or distribution by gift or sale of spirituous liquor in containers of half pint and less in size, except as hereinafter provided.

There is hereby imposed a tax of three cents (3c) upon the sale or distribution by gift or sale of vinous liquors in containers of one-tenth (1/10) gallon in size, and a tax of two cents (2c) upon those in containers of one-twentieth (1/20) gallon in size."

§ 2. Section 2 of House Bill 37, reading as follows: "The last paragraph of Section 6, Article IV, Chapter one hundred and forty six (146) of the Acts of the General Assembly of 1934, is hereby repealed, amended and re-enacted so that when re-enacted, it shall read as follows: All such sales shall be in unbroken packages in either quart, one-fifth gallon, pint, half-pint sizes, and shall not be consumed on the premises, except in the case of spirituous liquors which are contained in two-ounce (2-oz.) or less containers that said containers shall not be sold by any liquor dispensary unless such dispensary has obtained a license to sell spirituous liquor by the drink.

That the tax levied upon spirituous liquor contained in two-ounce (2-oz.) containers or containers less in size shall be two cents (2c) upon each such container of spirituous liquor,'' is hereby repealed, amended, and re-enacted so that when re-enacted, shall read as follows: ''The last paragraph of Section 6, Article IV, Chapter one hundrer and forty-six (146) of the Acts of the General Assembly of 1934, is hereby repealed, amended and re-enacted so that when re-enacted, it shall read as follows: All such sales shall be in unbroken packages in either quart, one-fifth gallon, pint, and half-pint sizes, and shall not be consumed on the premises, except in the case of spirituous liquors which are contained in two-ounce (2-oz.) or less containers, or except in the case of vinous liquors which may be sold in containers of one-tenth (1/10) gallon and one-twentieth (1/20) gallon in size, that said containers shall not be sold by any licensed dispensary unless such dispensary has obtained a license to sell spirituous liquor by the drink.

That the tax levied upon spirituous liquor contained in two-ounce (2-oz.) containers or containers less in size shall be two cents (2c) upon each container of spirituous liquor.''

§ 3. Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State government and its agencies an emergency is declared to exist and this Act shall become a law and be effective on its passage and approval by the Governor.

Be it provided, however, that pending preparation of stamps and the development of other administrative plans, this bill shall be effective on such date as the Governor shall proclaim.

By Mr. Wagner:

H. B. 69. An Act for the establishment and creation of a Board of Examiners for the licensing of persons to operate steam boilers and steam engines and for the licensing of persons installing, serving or operating mechanical refrigeration, driven either by steam or electric motor, and providing for the enforcement thereof.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. There shall be, and the same is hereby established and created, a Board of Examiners for the licensing of boiler operators, and for the licensing of persons installing, servicing, or operating machanical refrigeration, driven by either steam or electric motor.

§ 2. Said Board shall consist of a Chief Examiner to be appointed by the Governor, and Assistant Chief Examiner and four District Examiners to be appointed by the Chief Examiner with the approval of the Governor, and who shall serve for four (4) years, or until his successor is appointed and qualified. Upon the resignation, removal, or death of the Chief Examiner, Assistant Chief Examiner, or a District Examiner, the vacancy shall be filled for the unexpired term in the manner provided for the original appointment. Said Chief Examiner shall receive for his services the sum of $3,000.00 per year to be paid out of the Treasury of the Commonwealth. Said Assistant Chief Examiner shall receive for his services the sum of $2,400.00 per year, and each district examiner shall receive for his services the sum of $2,000.00 per year, payable as aforesaid.

§ 3. The Chief Examiner shall be a practical steam engineer of not less than five (5) years experience. The Assistant Chief Examiner and each district examiner shall be a practical steam engineer of not less than three years experience.

§ 4. Each person who desires to act as a steam engineer of engines or boilers or to install, service, or operate mechanical refrigeration driven by either steam or electric motor, shall make application to the district examiner of steam engines for a license, upon a blank furnished him and shall pass an examination in the construction, operation of steam boilers, steam engines, steam pumps, and in the subject of hydraulics. The examination shall be conducted under the rules and regulations adopted by the Chief Examiner, which shall be uniform throughout the State. The district examiners, Assistant Chief Examiner, and Chief Examiner may administer oaths or affirmations to any applicant when the same is made necessary by the rules and regulations adopted by the Chief Examiner.

§ 5. If, upon such examination, the applicant is found proficient in such subject, a license shall be granted him to have charge of and operate stationary steam boilers and engines of the horse power required by law, or mechanical refrigeration units as discussed in this Act, for one year from the date on which it is issued. Upon written charges after notice and hearing, the district examiner may revoke the license of any person guilty of fraud in obtaining such license or who becomes insane or is addicted to the liquor and/or drug habit as to render him unfit to discharge the duty of steam engineer or for such other causes as the Board may deem sufficient.

§ 6. Upon application, the person to whom a license is issued under the provisions of the Chapter shall be entitled to a renewal thereof annually, unless the district examiner, for a cause named in the preceding section and upon notice and hearing, shall refuse such renewal.

§ 7. A person dissatisfied with an action of the district examiner in refusing or revoking a license or a renewal thereof, may appeal to the Chief Examiner of steam engineers, who shall investigate the action of the district engineer, and shall, if requested by the aggrieved person, grant to such person, a hearing before the entire Board. From findings of this Board, the aggrieved person may appeal to the courts of general jurisdiction in the Commonwealth as provided by law.

§ 8. Each applicant for examination for a license as an engineer shall pay to the district examiner of steam engines, at the time of the application, a fee of Five Dollars ($5.00), and for each renewal of such license, a fee of Three Dollars ($3.00), said fees to be remitted by said district examiner to the chief examiner, together with a monthly report of the business in each district and said fees to be paid into the Treasury of the Commonwealth of Kentucky by the said Chief Examiner.

§ 9. Each engineer shall exhibit his license in a conspicuous place in his engine room, and for each neglect or refusal to comply with the provisions of this Act, shall be fined not to exceed Five Dollars ($5.00).

§ 10. Whoever, being an engineer or operator of a steam boiler, engine or refrigeration unit as defined by this Act, violates any provision of this Act, shall be fined not less than Ten Dollars ($10.00) nor more than One Hundred Dollars ($100.00).

§ 11. The provisions of this Act shall not apply to boilers, engines, and refrigeration units under the jurisdiction of the United States, or to locomotive boilers and engines nor to the owners or users thereof, or to boilers which do not exceed fifteen (15) pounds steam pressure and do not exceed thirty (30) horse power either singly or in the aggregate, or to steam engines which do not exceed thirty (30) horse power or to refrigeration machinery of less than twenty (20) tons capacity either singly or in units.

§ 12. Any person engaged in the activities provided for by this Act, and who has been so engaged for one year in the Commonwealth of Kentucky at the time this bill becomes a law, shall be granted a license upon payment of the fee provided for herein and without examination. To all other persons, this Act shall have full force and effect.

By Mr. McGary:

H. B. 70. An Act relating to revenue and taxation, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. An annual tax is hereby levied on all billboards in the state of Kentucky.

§ 2. The tax on billboards shall be five cents per square foot, subject to subsequent provisions of this act. The area of the billboards shall be computed by multiplying its extreme width by its extreme height from the ground.

§ 3. After July 1, 1937, the tax on all billboards within fifty feet of any road on the state road system shall be ten cents per square foot.

§ 4. The annual tax levied under this bill shall be paid to the State Tax Commission on or before September 15 of each period, and shall be for the fiscal year beginning July 1 and ending June 30 of the period in which the tax is paid.

§ 5. The State Highway Commission is authorized to make such rules and require of the owners of billboards such reports as will enable the state to collect the tax. The Highway Commission is authorized to use its employees to keep records, and compute the area of billboards, and to make reports to the State Tax Commission concerning the enforcement of this act.

§ 6. Billboards as defined in this act shall include all structures erected and used chiefly as a medium of advertising, but shall not include signs and similar forms of advertising posted on or attached to buildings or structures not used chiefly for advertising.

§ 7. Whereas, the income of the State is not sufficient to balance the budget, and the raising of additional money is an immediate necessity, an emergency is declared to exist and this act shall become effective upon its passage and approval by the Governor.

Ordered that said bills be printed and referred to the Committee on Revenue and Taxation No. 1.

Dr. Shields moved that the Rules of this House be suspended for the purpose of allowing the Committee on Revenue and Taxation No. 1 to report.

Said motion was agreed to.

Thereupon Mr. Brown. of the Committee on Revenue and Taxation No. 1 to which the same had been previously referred, reported a bill entitled:

H. B. 62. An Act relating to revenue and taxation of pin machines, repealing inconsistent sections and declaring an emergency.

With a Committee amendment thereto.

With the expression of opinion that said bill ought to pass.

Said bill having been read the first and second times, ordered that said bill be placed in the Orders of the Day.

Mr. Myers moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

WEDNESDAY, MAY 6, 1936.

The House was opened with prayer by Mr. Garland Embry from the County of Grayson.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Fred A. Gnau
Eugene Gough
Ben Grogan
Jas. T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer

J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
W. G. Williams
Charles Wylie

Mr. Gnau moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Dr. Shields moved that the Rules of this House be suspended for the purpose of allowing the Committee on Revenue and Taxation No. 1 to report.

Said motion was agreed to.

Thereupon Mr. Brown, of the Committee on Revenue and Taxation No. 1 to which the same had been recommitted with the provision that when reported said bill would retain its place in the Orders of the Day, reported a bill entitled:

H. B. 59. An Act relating to revenue and taxation and declaring an emergency.

With Committee Amendments thereto.

Mr. Myers moved that said bill be taken up for immediate consideration.

Said motion was agreed to.

Thereupon the House took up for immediate consideration, said bill.

Said bill is as follows, viz.:

H. B. 59. An Act relating to revenue and taxation and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. (a) ''Bottled drinks'' for purposes of this Act shall be defined as all beverages sold in sealed, capped, or stopped bottles, except those having an alcoholic content in excess of one per cent (1%) by volume, and include beverages such as coca-cola, ginger ale, lime soda, pepsicola, fruit juices, grapeola, soda water, and other beverages whether or not similar to those enumerated in this paragraph, under whatever trade name vended. Beverages described in this paragraph are defined for purposes of this Act as ''soft drinks'' whether sold in bottles or not.

(b) The word ''syrup'' shall be defined for purposes of this Act as being the compound mixture or basic ingredients used in the making, mixing or compounding of soft drinks, by mixing the same with water, ice, fruits, milk, and/or other commodities whether or not similar to those enumerated here, to make a vendable soft drink, commonly known as a ''fountain drink,'' among such syrups being coca-cola syrup, cherocola syrup, lemon syrup, vanilla syrup, chocolate syrup, rock candy syrup, simple syrup, grapeola syrup, cherry smash syrup, and/or prepared syrups, whether or not similar to those enumerated here, under whatever name vended, manufactured or sold for the purpose of making soft drinks, other than bottled drinks. ''Syrups'' shall not include any commodity containing in excess of one per cent (1%) alcohol by volume.

(c) The term ''sale'' shall be defined for purposes of this Act as including all transfers and exchanges of tangible personal property for money or other valuable consideration.

(d) The term ''distributor'' shall be defined for purposes of this Act as including every person charged under the Act with the duty of paying the tax or taxes herein imposed.

(e) The word "person" shall be defined for purposes of this Act as including individuals, firms, joint stock companies, syndicates and corporations.

(f) The term "retailer" is defined for purposes of this Act as one engaged as a merchant in selling personal property not intended for resale. The word "retail" and forms thereof shall be interpreted in keeping with this definition.

(g) The term "jobber" is defined for purposes of this Act as one not a manufacturer who sells personal property intended for resale.

(h) The term "manufacturer" is defined for purposes of this Act in the usual sense of a person who fabricates or compounds commodities in such way as to add to their value. It includes those who operate as bottlers.

§ 2. (a) A state tax is hereby imposed on the sale or use of commodities enumerated in this section in the amounts specified as follows:

Bottled drinks, one cent (1c) for each five cents (5c) or fractional part thereof of the retail selling price.

Syrup, seventy-six cents (76c) a gallon.

(b) There is also hereby levied and shall be assessed and collected on the sale of soft drinks manufactured or sold within the State, which drinks are manufactured without the use of any syrup upon which the tax has previously been paid and which are other than bottled drinks, a tax of one cent (1c) for each five cents (5c) or fractional part thereof of the retail price of such drinks. This tax shall be collected in accordance with rules and regulations promlugated by the Department of Revenue for the purpose of rendering this statute effective; provided that when it is impractical to use stamps and crowns the Department of Revenue may dispense with the use of stamps and crowns and may require the distributor of such drinks to make returns in writing in such form as the

Department of Revenue may prescribe and as frequently as the said Department may require. In such event the Department of Revenue may require payment of the tax at the time the return is submitted or, at its discretion, may require the taxpayer to pay all or a part of the tax after the return has been audited and the tax newly assessed by the Department of Revenue. Provided that the tax shall not be deemed in any case to apply to milk, coffee, and/or tea, when dispensed as such and unmixed with other ingredients.

§ 3. The tax imposed herein upon the sale of bottled drinks and for syrups, when sold in bottles, shall be paid by affixing stamps in the manner and at the times herein set forth, according to rules and regulations which may be promulgated by the Department of Revenue to make this Act effective.

§ 4. All syrups shall be stamped within twenty-four hours of the time such syrups are manufactured, packed, or imported into the state, and before the same shall be sold or offered for sale, by affixing to each individual barrel, box, or other container, whether or not enumerated here, an adhesive stamp in such denomination as to show the payment of the tax levied herein. The stamp shall be so affixed that the box, bottle or other container can not be opened by the ordinary process without breaking or tearing such stamp or cutting or destroying said barrel, box, bottle, or other container, and it shall be so affixed as to require the continued application of steam or water to remove it without opening the said barrel, box, bottle or other container.

§ 5. All bottled drinks manufactured, bottled, or imported for sale in this state, shall be stamped within twenty-four (24) hours of the time such drinks are manufactured, bottled, or imported and before the said drinks are sold or offered for sale, by affixing to each individual bottle either a crown or cap provided by the Department of Revenue for the purpose or an adhesive stamp in such denomination as to denote payment of the tax herein levied. If an adhesive stamp is used, it shall be so affixed that it will be broken when the bottle is opened on unsealed; and it shall be so affixed as to require the continued application of steam or water to remove it without opening the bottle.

§ 6. (a) In the event adhesive stamps shall be attached to individual bottles of soft drinks, no cancellation or obliteration of the stamp shall be required, but tax stamps affixed to containers of syrups to be used at soda fountains, or otherwise for compounding soft drinks, shall be canceled in the following manner, to wit: By the distributor's writing or stamping, or causing to be written or stamped, with ink or indelible pencil across said stamp said distributor's initials or name and the date upon which the stamp was affixed.

(b) Whoever makes use of any adhesive stamp to denote any tax imposed by this Act without canceling such stamp, if required herein, shall be guilty of a misdemeanor, and, if convicted, shall pay a fine of not more than one hundred dollars ($100.00) or be imprisoned for not more than thirty (30) days for each offense.

§ 7. (a) The administration of this Act is vested in the Department of Revenue, which may prescribe forms and promulgate rules and regulations needed for the enforcement of the Act. The Department of Revenue or any representative appointed by it in writing, is hereby authorized to examine the books, records, papers, files, equipment and/or inventory of any distributor pertaining to sales made taxable by this Act, to examine witnesses under oath for the purpose of verifying returns made by distributors or for other purposes involving enforcement of this Act, and to examine the books, records, papers, files, equipment and/or inventory of manufacturers, jobbers, retailers or carriers for the purpose of determining whether the Act is being violated.

(b) The Department of Revenue shall have power to institute legal proceedings for the purpose of ascertaining the amount of tax due and of enforcing the collection thereof with penalties thereon and for the purpose of enjoining the operation of the business of the distributor until said tax is paid.

(c) The Department of Revenue may at or after the commencement of an action for the purpose of collecting the amount of tax due and penalty and interest thereon, as set out herein, have an attachment against the property of the distributor or garnishment of his debtors without the execution of bond, upon filing an affidavit showing the nature of the claim, that it is just, the sum which the Department of Revenue believes the state should recover from the distributor, and any of the grounds upon which an attachment is authorized by the civil code of practice in civil causes.

(d) Any information obtained by the Department of Revenue or any agent or representative thereof, as a result of the reports, investigations or verifications, herein authorized and required to be made, shall be confidential as respecting the business of any distributors and any person divulging such information, except on the order of a court of competent jurisdiction, or to an officer of the Commonwealth entitled to receive the same in his official capacity, shall be fined not exceeding five hundred dollars ($500.00), provided, however, that this provision shall not prevent the Department of Revenue from publishing statistics of tax receipts and volumes of sales in such a manner as not to reveal information concerning the business of any individual distributor.

(e) The Department of Revenue is hereby authorized and directed to prescribe the forms of adhesive stamps and caps or crowns herein required to be used by distributors. The Department shall have adhesive stamps and crowns carrying the design prescribed, prepared for sale to distributors in such a manner as it may deem proper. The adhesive stamps shall be sold at their face value, the crowns or caps shall be provided to distributors at the cost of manufacturer plus transportation charges plus stamp tax value.

(f) The methods of breaking packages and the methods of affixing stamps that shall be employed by distributors under the terms of this Act shall be prescribed by the Department of Revenue so as to render effective the enforcement of this Act.

(g) The Department of Revenue shall keep a suitable record of the sale of all stamps and crowns which shall show the dates of sale thereof and the names of the purchasers.

§ 8. Whoever removes, washes, restores, alters, or otherwise prepares an adhesive stamp or crown with intent to use, or cause to be used, after it has already been once used, or whoever knowingly or willfully buys, sells, offers for sale, or gives away such washed, restored or altered stamp or crown, to any person, or knowingly uses the same, or has in his possession any washed, restored or altered stamps or crowns which have been removed from commodities to which they have been previously affixed, or whoever, for the purpose of indicating the payment of any tax herein imposed, uses again any stamp or crown that has theretofore been used, for the purpose of denoting the payment of the tax provided in this Act, or whoever prepares, buys, sells or offers for sale, or knowingly has in his possession any counterfeit stamps or crowns, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment for not more than one (1) year or by both methods.

§ 9. Any person required by this Act to affix the stamps or use official crowns, as provided in this Act, who shall fail properly to affix the stamps or crowns, within the time prescribed by law, shall be required to pay as a part of the tax imposed hereunder a penalty of one hundred per cent (100%) of the amount of tax due to be assessed and collected by the Department of Revenue as other taxes are collected. Any commodities in the place of business of any person required by the provisions of this Act to stamp the same shall be *prima* *facie* evidence that such articles are intended for sale or use in this State.

§ 10. Any manufacturer liable to pay the tax imposed by this section, who has in his inventory commodities made taxable hereunder, may defer payment of the tax to such time as may be approved by the Department of Revenue, not beyond the time of sale, upon making bond in favor of the Commonwealth of Kentucky in an amount equal to the tax on the maxmium unstamped inventory (said bond to be approved by the Department of Revenue) to insure the Commonwealth against loss of tax revenue due to deferring the stamping of the commodities as required hereunder. It is the intent and purpose of this section to render is reasonably possible for manufacturers to stamp the bottles or other containers in which all beverages, the sale of which is taxable hereunder, shall be found in the hands of retailers.

§ 11. No person shall sell, give or lend any stamps or crowns, nor shall any person purchase, accept, receive, or borrow any stamps or crowns from any person; it being the intent hereof, in order to prevent fraud and insure collection of the taxes due, to limit all sales and transfers of such stamps or crowns to the Department of Revenue or its authorized representative.

§ 12. It is the intent and purpose of this Act to impose the tax levied herein once only upon the sales of the same commodities made taxable hereunder. Any commodity, on account of the sale of which the tax has been paid, shall not occasion payment of a second or other tax regardless of the number of times the commodity may be sold in this State.

§ 13. Every distributor is hereby required to preserve written records of sales made taxable by this Act in such form as the Department of Revenue may prescribe, to keep invoices of commodities purchases, which are taxable hereunder, and to maintain such other records and submit such reports as the Department may require for the enforcement of this Act.

§ 14. No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this Act. The aggrieved taxpayer shall pay under protest the tax as and when required and may at any time within two years from the date of such payment sue the Commonwealth through its agent, the Auditor of Public Accounts, in an action at law in any court, state or federal, otherwise having jurisdiction of the parties and subject matter, for the recovery of the tax paid with legal interest thereon from the date of payment. If it is finally determined that said tax or any part thereof was wrongfully collected, for any reason, it shall be the duty of the Auditor of Public Accounts to issue his warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected together with legal interest thereon. The Treasurer shall pay the same at once out of the General Expenditure Fund of the State in preference to other warrants or claims against the Commonwealth. A separate suit need not be filed for each individual payment made by any taxpayer, but a recovery may be had in one suit for as many payments as may have been made.

§ 15. If commodities, the sale of which is made taxable by this Act, are distributed under such circumstances that the Constitution and laws of the United States or of Kentucky preclude the possibilities of imposing the tax, then such tax shall not apply. In case of sales made into another state, the Department of Revenue may dispense with stamps or crowns or may require stamps on cases or may make appropriate regulations prescribing some other means whereby the tax may not be made payable.

§ 16. Any person who shall violate any of the provisions of this Act for which specific criminal penalty is not herein provided, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars ($500.00) for each offense and said person's license shall be subject to revocation at the discretion of the court. In the event that any such person shall be convicted of a second offense, such offender, in addition to other penalties herein provided, shall forfeit for such time as the Court may determine, the right to purchase any stamps from the Department of Revenue and shall have said person's license revoked for the prescribed period. The penaltv involving the revocation of license may be applied also in those instances in which a specific penalty is herein provided; said revocation of its license to be in addition to the specific penalty prescribed in this Act.

§ 17. All revenue derived from the operation of this Act as collected and recorded shall be deposited through the Department of Finance into the State Tresaury, and credited to the General Expenditure Fund.

§ 8. The provisions of this Act are severable. If any provision, section, or paragraph thereof, or if the application of any provision, section or paragraph to any class of sales or uses affected by the operation of the Act, should be held unconstitutional or invalid, such decision regarding the provision, section, paragraph, or application shall not affect or impair the remainder of the Act, it being hereby declared the legislative intent to tax separately the sale of each class of property contemplated by any of its provisions.

§ 19. Whereas, the present State revenue does not meet the immediate needs of the maintenance of the State Government, its agencies and subdivisions, an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor. Be it provided, however, that pending preparation of stamps and crowns, the effective date of Section 2 of this Act shall be 1 o'clock A. M., three (3) calendar weeks from the date of the approval of this Act by the Governor.

Said amendments as offered by the Committee are as follows, viz.:

Committee amendment No. 1:

Amend House Bill No. 59, Section 1, line 25, page 2 of the printed bill, by adding at the end of line 25 the following language:

''The term 'sale' also includes gifts''.

Committee amendment No. 2:

Amend House Bill No. 59, by adding after line 41, Section 1, page 2 of the printed bill, the following language:

''(i) The word 'candy' is defined for purposes of this Act as including all those commodities commercially so designated and also such additional confections as are composed wholly or in part of candy. The term does not include cakes or cookies or other sweetened breads which may be filled, coated or iced with confections similar to candy.

''(j) The term 'ice cream' is defined for purposes of this Act as all frozen or semi-frozen products of milk, fruit, fruit juices and/or other commodities commonly called ice cream, sherbert, ice, frozen puddings and mousse. The term does not include confections herein defined as candy.

''(k) 'Chewing gum' is defined for purposes of this Act as all preparations of chicle and/or other substances sold and/or used under the name of chewing gum.

''(l) The word 'cosmetics' is defined for purposes of this Act as including any preparation manufactured, sold, or distributed for use as a facial or body powder, lotion or cream; rouge, lipstick, nail polish or covering, nail polish remover, cuticle cream or oil; hair tonics, pomades, ointments, oils, dyes, rinses, or shampoos; eyebrow and eyelash pencils, and eyebrow, eyelash or eyelid coloring; bath salts and every variety of perfumes and toilet waters, astringents; mouth washes, tooth pastes and powders, depilatories, deodorants; and any and all other preparations whether or not enumerated in this section and whether or not similar to those enumerated, which are advertised, sold or used for the purpose of softening, cleansing, or beautifying the skin, hair, teeth or nails. Provided, however, that neither prescriptions prepared by physicians for a specified individual and filled by licensed pharmacists nor soaps retailing at thirty cents (30c) a pound or less shall be deemed to be cosmetics for the purposes of this Act.''

Committee amendment No. 3:

Amend House Bill No. 59, Section 2, line 25, page 3 of the printed bill, by adding after line 25 the following language:

''(c) A state tax is hereby imposed on the sale of all candies of twenty per cent (20%) of the retail selling price. Provided, however, that the Department of Revenue is hereby authorized to assume a retail mark-up equal to that which is customary in the trade.

''(d) A state tax is hereby imposed on the sale of ice cream of seven cents (7c) a quart and a like or proportionate rate on more or less than one (1) quart. The first sale of ice cream in the Commonwealth made by a distributor domiciled in Kentucky shall be subject to the tax and each subsequent sale shall be tax free if the said ice cream shall be accompanied by an invoice on which it is clearly indicated that the tax herein imposed has been assumed by the said distributor.

''(e) A state tax is hereby imposed on the sale of chewing gum of one cent (1c) a five cent (5c) package or fractional part thereof.

''(f) A state tax is hereby imposed on the receipt of cosmetics in the State by any Kentucky retailer equal to twenty per cent (20%) of the invoice price plus transportation cost, if any, to the Kentucky retailer.

''(g) A state tax is hereby imposed on the sale of all nuts of twenty per cent (20%) of the retail selling price, provided, however, that the Department of Revenue is hereby authorized to assume a retail mark-up equal to that which is customary in the trade.

"2. In addition to the taxes herein imposed, each person in this State engaged in the business of selling and/or receiving commodities on the sale and/or receipts of which a tax is herein imposed, who is not required by any other law of the State of Kentucky to be licensed and pay a franchise tax, is hereby required to procure a license from the Department and to pay to the treasury of the Commonwealth an annual franchise tax of two dollars ($2.00)."

Committee amendment No. 4:

Amend House Bill No. 59, Section 3, line 5, page 3 of the printed bill, by inserting as separate paragraphs after line 5 the following language:

"The tax imposed upon the sale of candies and chewing gum shall be collected by the retailer selling such candies and/or chewing gum and shall be accounted for by him to the Department of Revenue and he shall make a monthly report covering such sales on or before the 10th of each month following the month during which this Act becomes effective and shall accompany said report with a certified or cashier's check for the amount of the tax.

"The tax imposed upon the sale of ice cream shall be collected by the person making the first sale of ice cream in the Commonwealth of Kentucky and such person shall account for same to the Department of Revenue and he shall make a monthly report covering such sales on or before the 10th of each month following the month during which this Act becomes effective and shall accompany said report with a certified or cashier's check for the amount of the tax.

"The tax herein imposed upon the receipt of cosmetics in this state by any retailer shall be accounted for by him to the Department of Revenue and he shall make a monthly report covering such receipts on or before the 10th of each month following the month during which this Act becomes effective and shall accompany said report with a certified or cashier's check for the amount of the tax.

"The Department of Revenue, in lieu of the administrative plan hereinabove set out, may require the affixing of stamps evidencing payment of the taxes on the sale, use, and/or receipt of candies, chewing gum, ice cream and/or cosmetics at such a time or times and in such a manner and to such packages or types of packages as it may deem desirable."

Committee amendment No. 5:

Amend House Bill No. 59, Section 7, subsection (e), line 45, page 6 of the printed bill, by inserting at the end of line 45 the following language:

"Be it provided, however, that the Department in its discretion may permit said distributor, on the furnishing of a bond deemed good and sufficient by the Department in an amount in no event less than twice the average monthly tax paid by such distributor with a corporate surety authorized to do business in Kentucky, to purchase such adhesive stamps and/or crowns or caps on a credit of not more than thirty (30) days."

Committee amendment No. 6:

Amend House Bill No. 59, Section 5, line 10, page 4 of the printed bill, by adding as a separate paragraph after line 10 the following language:

"Be it provided, however, that the person required by Sections 4 and 5 of this Act to affix adhesive stamps and/or crowns or caps to such containers shall be allowed a discount of three per cent (3%) of the amount of the tax to cover breakage and leakage."

Committee amendment No. 7:

Amend House Bill No. 59, Section 7, line 6, page 5 of the printed bill, by inserting after the word "sales" and before the word "made" the following language:

"and/or receipts".

Committee amendment No. 8:

Amend House Bill No. 59, Section 13, line 2, page 8 of the printed bill, by inserting after the word "sales" and before the word "made" the following language:

"and/or receipts".

Committee amendment No. 9:

Amend House Bill No. 59, Section 19, lines 6, 7, and 8, page 10 of the printed bill, by striking out all of lines 6, 7, and 8 and inserting in lieu thereof the following language:

"stamps and crowns and the creation of the necessary administrative set-up, the effective date of Section 2 of this Act shall be one o'clock A. M., July 1, 1936".

Dr. Shields moved the Previous Question on said amendments and bill.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Said amendments were each and severally agreed to.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays, being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
V. O. Chandler
Floyd Clark
Roscoe Claxon
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Chas. P. Farnsley
H. Myer Garner
Fred A. Gnau
Eugene Gough
W. L. Hampton, Jr.
Price Holbrook
Clyde S. Howard
Ira W. Hulette
O. C. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Elmer McGlothen
C. S. Matherly
Duke Mayfield
W. E. Mull
Rodes K. Myers
J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
Joseph L. Wall
W. G. Williams
John Kirtley, Spkr.
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Those who voted in the negative were—

Reuben J. Boling
Dr. R. A. Byers
Jas. C. Carter
George S. Clay
J. A. Coleman
Harry Davis
Howard G. Early
Garland Embry
Walter R. Fannin
T. P. Fitzpatrick
James Garnett, Jr.
G. W. Garrett
Ben Grogan
Jas. T. Hamilton
C. L. Hammons
Thomas W. Hines
John M. Hunnicut
Ben W. Johnson
Leslie Larrimore
Robert E. Lee
Lloyd MacDonald
W. F. McGary
D. T. Matlack
John B. Mollett
Tyler Munford
Russell O'Neill
Hobart Rayburn
Ray O. Shehan
Chester D. Silvers
H. C. Steely
Henry Stewart
R. Van Bever, Jr.
S. J. Wagner
Henry Ward
Charles Wylie
—35

Resolved that the title thereof be as aforesaid.

Mr. Matherly moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

A message was received from the Senate announcing that they had passed a bill which originated in this House, entitled:

H. B. 63. An Act relating to revenue and taxation of certain motor fuels and declaring an emergency.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

And that they had passed a resolution which originated in this House, entitled:

H. Res. 9. Resolution providing for payment of money by the Chief Clerk of the House and Chief Clerk of the Senate, for copies of Kentucky Statutes and 1933 Supplement.

With the following amendment thereto as proposed and adopted by the Senate, viz.:

Amend H. Res. 9 by adding at the end the following clause:

"Whereas, this account has been long past due, and payment should not be deferred any longer than necessary, an emergency is hereby declared to exist and this resolution shall take effect from and after its passage and approval by the Governor."

Dr. Shields moved that the Rules of this House be suspended for the purpose of allowing the Committee on Revenue and Taxation No. 1 to report.

Said motion was agreed to.

Thereupon Mr. Brown of the Committee on Revenue and Taxation No. 1 to which the same had been recommitted with the provision that when reported, said bill would retain its place in the Orders of the Day, reported a bill entitled:

H. B. 64. An Act relating to revenue and taxation, repealing, amending and re-enacting Sections 5 and 12 of Chapter 26, of the Acts of the Special Session of 1934, etc.

With a committee amendment thereto.

Mr. Myers moved that said bill be taken up for immediate consideration.

Said motion was agreed to.

Thereupon the House took up for immediate consideration, said bill.

Said bill is as follows, viz.:

H. B. 64. An Act relating to revenue and taxation repealing, amending and re-enacting Section 5 and Section 12 of Chapter twenty-six (26) of the Acts of the Special Session of 1934 of the General Assembly of the Commonwealth of Kentucky, now codified in Baldwin's 1935 Supplement to Carroll's Kentucky Statutes as Section 4202a-17 and Section 4202a-24, and declaring an emengerncy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 5 of the above Act is hereby repealed, amended and re-enacted so that when amended, and re-enacted, it shall read as follows:

"Section 5. Every merchant establishing, operating or maintaining one or more stores, stands or places of business within this State, shall pay annually the license fee hereinafter prescribed for the privilege of opening, establishing, operating or maintaining such stores, stands or places of business. The license fees herein prescribed shall be used as follows:

(1) On one store the flat sum of two dollars ($2.00);

(2) On chains of more than one, but not more than three stores, the flat sum of fifty dollars ($50.00) for each said store;

(3) On chains of more than three, but not more than six stores, the flat sum of one hundred dollars ($100.00) for each said store;

(4) On chains of more than six, but not more than ten stores, the flat sum of two hundred dollars ($200.00) for each said store;

(5) On chains of more than ten, but not more than fifteen stores, the flat sum of four hundred dollars ($400.00) for each said store;

(6) On chains of fifteen, but not more than twenty stores, the flat sum of six hundred dollars ($600.00) for each said store;

(7) On chains of more than twenty stores, the flat sum of eight hundred dollars ($800.00) for each said store."

§ 2. Section 12 of the above Act be hereby repealed, amended and re-enacted so that when amended and re-enacted, it shall read as follows: "Section 12. The license tax levied herein, shall not be in lieu of any special State license, occupational or corporation license tax under the laws now in force, or that may hereafter be enacted."

§ 3. Whereas, the present State revenues will not meet the immediate needs for the maintenance and development of the State government and its agencies and the State's credit is threatened, an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor; provided, however, that the provisions hereof shall first be applied for the fiscal year beginning July 1, 1936, and ending June 30, 1937.

Said amendment as offered by the Committee is as follows, viz.:

Committee Amendment.

Amend H. B. No. 64 by striking from Section 1, lines 10 to 21 inclusive on pages 1 and 2 of the printed bill, and inserting in lieu thereof the following language:

(2) On all chains of more than one, but not more than five stores, two dollars ($2.00) plus twenty-five dollars ($25.00) for each said store in excess of one;

(3) On all chains of more than five, but not more than ten stores, one hundred and two dollars ($102.00) plus fifty dollars ($50.00) for each said store in excess of five;

(4) On all chains of more than ten, but not more than twenty stores, three hundred and fifty-two dollars ($352.00) plus one hundred dollars ($100.00) for each said store in excess of ten;

(5) On all chains of more than twenty, but not more than fifty stores, one thousand three hundred and fifty-two dollars ($1,352.00) plus two hundred dollars ($200.00) for each store in excess of twenty;

(6) On all chains of more than fifty, seven thousand three hundred and fifty-two dollars ($7,352.00) plus three hundred dollars ($300.00) for each said store in excess of fifty.

Said amendment was then agreed to.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays, being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
G. W. Garrett
Fred A. Gnau
Eugene Gough
Ben Grogan
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
C. S. Matherly
D. T. Matlack
Duke Mayfield
John B. Mollett
W. E. Mull
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
W. G. Williams
Charles Wylie
John Kirtley, Spkr.
—86

Those who voted in the negative were—

C. W. Anderson, Jr.
H. T. Baker
James Garnett, Jr.
James T. Hamilton
Tyler Munford
Chester D. Silvers
H. C. Steely
Henry Ward
—8

Resolved that the title thereof be as aforesaid.

Mr. Myers moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Joe Robinson moved that the Rules of this House be suspended and that the vote by which a bill entitled:

H. B. 9. An Act relating to revenue and taxation; providing a license tax on the business or occupation of cemetery memorial dealers and on salesmen selling or offering to sell cemetery monuments.

Was rejected on April 21,

Be reconsidered.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Carter and McCarthy, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
B. F. Bedford
Douglas Bolling
Wallace Brown
Floyd Clark
George S. Clay
Herbert Cook
Howard G. Early
Chas. P. Farnsley
Fred A. Gnau
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
J. H. Jones
R. T. Kirkman

J. F. Ladd
J. L. McDermott
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. E. Mull
Rodes K. Myers
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
H. C. Stecly
Henry Stewart
Dr. H. S. Swope
Joseph L. Wall
Henry Ward
—44

Those who voted in the negative were—

G. M. Ballard
Reuben J. Boling
Ollie J. Bowen
Jas. C. Carter
Roscoe Claxon
J. A. Coleman
Roy Conway
Sam Dever
George W. Dunlap
Garland Embry
Walter R. Fannin
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ben Grogan
James T. Hamilton
C. L. Hammons
Robert E. Lee
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
Elmer McGlothen
J. C. Nickell
Russell O'Neill
Mel Petry
Hobart Rayburn
Ray O. Shehan
W. R. Tapp
R. Van Bever, Jr.
Charles Wylie
—30

Dr. Shields moved that the Rules of this House be suspended for the purpose of introducing a resolution.

Said motion was agreed to.

Thereupon Dr. Shields offered the following resolution, viz.:

H. Res. 10. Be it resolved by the House of Representatives of Kentucky, the Senate concurring therein that when this extraordinary session of the General Assembly adjourns on May 9, 1936, that it adjourn *sine die.*

Said resolution was adopted.

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, bills of the following titles, viz.:

H. B. 41. An Act relating to revenue and taxation on gasoline and declaring an emergency.

H. B. 48. An Act relating to revenue and taxation and declaring an emergency.

H. B. 49. An Act to repeal Section 7 of Chapter 74 of the Acts of 1926, being an Act relating to revenue and taxation, providing for corporation license tax for certain corporations, etc.

H. B. 51. An Act relating to revenue and taxation of the gross receipts of utilities and declaring an emergency.

H. B. 54. An Act relating to revenue and taxation on amusements and entertainments, etc., and declaring an emergency.

Thereupon all other business was suspended, said bills were read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bills to the Senate.

After a time the Enrolling Clerk delivered the original and enrolled copies of said bills duly signed by the President of the Senate, into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bills to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

Mr. Hunnicutt moved that the Rules of this House be suspended and that the vote by which the consideration of a bill entitled:

H. B. 4. An Act relating to revenue and taxation on greyhound racing in the Commonwealth of Kentucky.

Was postponed indefinitely,

Be reconsidered.

Mr. Gnau moved that the House do now adjourn to meet again on Friday, May 8, at one o'clock P. M.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Hunnicutt and Claxon, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
C. W. Anderson, Jr.
H. T. Baker
Reuben J. Boling
Roscoe Claxon
J. A. Coleman
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
James Garnett, Jr.
Fred A. Gnau
Ben Grogan
W. L. Hampton, Jr.
Clyde S. Howard
Ira W. Hulette
O. C. Jones
R. T. Kirkman
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
Elmer McGlothen
C. S. Matherly
D. T. Matlack
W. E. Mull
Tyler Munford
Russell O'Neill
A. W. Pfeiffer
Hobart Rayburn
Wade H. Riley
Carl Schneider
Ray O. Shehan
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
Henry Stewart
R. Van Bever, Jr.
W. G. Williams

—43

Those who voted in the negative were—

Henry H. Allen
W. T. Baker
G. M. Ballard
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
V. O. Chandler
Floyd Clark
George S. Clay
Herbert Cook
T. P. Fitzpatrick
H. Myer Garner
G. W. Garrett
Jas. T. Hamilton
C. L. Hammons
Price Holbrook
John M. Hunnicut
Ben W. Johnson
J. H. Jones
J. F. Ladd
J. L. McDermott
W. F. McGary
Duke Mayfield
John B. Mollett
Rodes K. Myers
J. C. Nickell
Mel Petry
J. C. Ramey
Harry C. Records
L. K. Rice
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Dr. B. F. Shields
H. C. Steely
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
Henry Ward

—45

The motion as made by Mr. Hunnicutt was then disagreed to.

The yeas and nays being required thereon by Messrs. Hunnicutt and Claxon, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
Henry H. Allen
W. T. Baker
G. M. Ballard
B. F. Bedford
Douglas Bolling
Wallace Brown
V. O. Chandler
Floyd Clark
George S. Clay
Roy Conway
Herbert Cook
Walter R. Fannin
T. P. Fitzpatrick
H. Myer Garner
G. W. Garrett
Jas. T. Hamilton
C. L. Hammons
Price Holbrook
John M. Hunnicut
J. H. Jones
R. T. Kirkman
J. F. Ladd
J. L. McDermott
W. F. McGary
Duke Mayfield
John B. Mollett
Rodes K. Myers
J. C. Nickell
Mel Petry
J. C. Ramey
Harry C. Records
L. K. Rice
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Dr. B. F. Shields

H. C. Steely
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
S. J. Wagner
Joseph L. Wall
Henry Ward
—46

Those who voted in the negative were—

C. W. Anderson, Jr.
H. T. Baker
Reuben J. Boling
Roscoe Claxon
J. A. Coleman
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
James Garnett, Jr.
Fred A. Gnau
Ben Grogan
W. L. Hampton, Jr.
Clyde S. Howard
Ira W. Hulette
O. C. Jones
Leslie Larrimore
Robert E. Lee
T. B. McConnell
Lloyd MacDonald
Elmer McGlothen
C. S. Matherly
D. T. Matlack
W. E. Mull
Tyler Munford
Russell O'Neill
Hobart Rayburn
Wade H. Riley
Carl Schneider
Ray O. Shehan
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
R. Van Bever, Jr.
W. G. Williams
Charles Wylie
—37

Mr. Gnau moved that the House do now adjourn to meet again on Friday, May 8, at one o'clock P. M.

Said motion was agreed to.

And then the House adjourned.

FRIDAY, MAY 8, 1936.

The House was opened with prayer by the Reverend R. B. Kelly of the Church of the Nazarene of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
C. W. Anderson, Jr.
H. T. Baker

G. M. Ballard
E. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Walter R. Fannin
H. Myer Garner
G. W. Garrett
Fred A. Gnau
Eugene Gough
Ben Grogan
Jas. T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Clyde S. Howard
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. H. Miller
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
Henry Stewart
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

Mr. Myers moved that the reading of the Journal of Wednesday's proceedings be dispensed with.

Said motion was agreed to.

A message was received from the Senate announcing that they had passed a bill which originated in this House, entitled:

H. B. 59. An Act relating to revenue and taxation and declaring an emergency.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

And that they had concurred in a Resolution which originated in this House, entitled:

H. Res. 10. Joint resolution providing for *sine die* adjournment of this Special Session.

Mr. McDermott moved that the privilege of the floor be extended to Mr. Richard Phillips of Newport, Kentucky.

Said motion was agreed to.

Mr. McConnell moved that the privilege of the floor be extended to Mr. Childress of Caldwell County.

Said motion was agreed to.

Mr. Gnau moved that the privilege of the floor be extended to Mr. Leo E. Meyer of Louisville, Kentucky.

Said motion was agreed to.

Mr. Gnau moved that Edward Louis Stevens of Washington, D. C., be appointed an Honorary Page of this House.

Said motion was agreed to.

Mr. Gnau moved that the privilege of the floor be extended to Mr. and Mrs. Earl Stevens of Washington, D. C.

Said motion was agreed to.

Mr. McDermott offered the following resolution, viz.:

Be it Resolved by the House of Representatives, That when the rehabilitation of State Institutions is undertaken with funds appropriated in the Special Session of 1936 for that purpose, that the State Hospitals receive first consideration toward rehabilitation, and that such rehabilitation work on the State Hospitals be of such character as to relieve the overcrowded, unsanitary and unsafe conditions now existing in the State Hospitals and that a copy of this resolution be forwarded to the Governor by the Clerk of the House of Representatives as an expression of the will and opinion of the members of the House of Representatives of the Commonwealth of Kentucky of 1936.

Said resolution was adopted.

Mr. Myers moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. Hammons moved that a Committee of five members be appointed by the Speaker to wait upon the Governor and ascertain from him when the call for the next Special Session will be made.

Said motion was agreed to.

Thereupon the Speaker appointed Messrs. Gnau, Bedford, O'Neill, McGary and Garrett as members constituting such Committee.

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, a bill entitled:

H. B. 63. An Act relating to revenue and taxation of certain motor fuels and declaring an emergency.

Thereupon all other business was suspended, said bill was read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House, deliver said bill to the Senate.

After a time the Enrolling Clerk delivered the original and enrolled copies of said bill duly signed by the President of the Senate, into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bill to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

The House took up for consideration a resolution which originated in the Senate, entitled:

S. Res. 5. Joint Resolution requesting Congress of the United States to remove unfair and prejudicial preemption of Kentucky revenue from her main products.

(For Resolution see House Journal of April 22.)

Said resolution was then adopted.

The House took up for consideration a resolution which originated in this House, entitled:

H. Res. 9. Resolution providing for the payment by the Clerk of the House and the Clerk of the Senate for copies of the Kentucky Statutes and Supplements.

With a Senate amendment thereto.

(For resolution see House Journal of May 1.)

(For amendment as proposed and adopted by the Senate, see House Journal of May 6.)

Said amendment was then concurred in.

Said resolution was then adopted, as amended.

Mr. Myers moved that the House do now recess until two-fifteen o'clock P. M.

Said motion was agreed to.

And then the House recessed.

The hour of two-fifteen o'clock P. M. having arrived, the Speaker resumed the chair and called the House to order.

Mr. Gnau of the Committee heretofore appointed to wait upon the Governor to ascertain from him the date of the call for the next Special Session, reported that they had discharged the duties imposed upon them and had been informed by the Governor that the call would be issued for May 18, 19, or 20.

The Speaker, in compliance with a request heretofore made by the Senate, to appoint a Committee on Conference to settle the differences between the two Houses on a bill entitled:

H. B. 7. An Act relating to auctioneers doing business in the Commonwealth of Kenutucky.

Appointed Messrs. Clay, Ladd and Coleman as members of said Conference Committee.

A message was received from the Senate announcing that they had receded from Amendments Nos. 9 and 10 as proposed and adopted by the Senate, to a bill which originated in this House entitled:

H. B. 53. An Act relating to licensing of motor vehicle operators, etc.

(For bill see House Journal of April 24.)

(For amendments as proposed and adopted by the Senate, see House Journal of May 1.)

And that they had passed said bill.

Said bill was then passed, as amended.

The yeas and name being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
W. T. Baker
G. M. Ballard
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Fred A. Gnau
Ben Grogan
W. L. Hampton, Jr.
Clyde S. Howard
John M. Hunnicut
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
T. B. McConnell
J. L. McDermott
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
W. H. Miller
W. E. Mull
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross

Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
J. J. Thomas
Joseph L. Wall
L. R. Wells
W. G. Williams
Charles Wylie
—59

Those who voted in the negative were—

H. T. Baker
Reuben J. Boling
Jas. C. Carter
J. A. Coleman
Harry Davis
Jas. T. Hamilton
C. L. Hammons
Robert E. Lee
Tyler Munford
Hobart Rayburn
Henry Stewart
Henry Ward
—12

Mr. Schneider moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

And that they had passed bills which originated in this House, entitled:

H. B. 56. An Act to repeal, amend and re-enact Chapter 151 of the Acts of the General Assembly of the Commonwealth of Kentucky of 1932.

H. B. 64. An Act relating to revenue and taxation and declaring an emergency.

Ordered that said bills be delivered to the Enrolling Clerk of this House.

Mr. Matherly moved that the Committee on Investigation be requested to make a report.

Mr. Joe E. Robinson of the Committee on Investigation asked leave of the House to report on tomorrow.

Said leave was granted.

Mr. Carter offered the following resolution, viz.:

Whereas, This session of the General Assembly has passed various and divers forms of Sales Tax measures, requiring the payment of the tax in one cent pieces: Therefore, *Be it Resolved,* That inasmuch as that during the time Hon. Ruby Laffoon was Governor of Kentucky, that said one-cent pieces were known as Rubies, and that the said Laffoon is no longer Governor and that the Hon. Happy Chandler is now Governor of Kentucky at whose instance the Sales Tax Measures were passed, that said one-cent pieces be hereafter named and designated as Happies in honor of our beloved Governor.

Dr. Shields moved that said resolution be laid on the table.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. Hammons and Shields, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
H. T. Baker
W. T. Baker
G. M. Ballard
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Floyd Clark
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
G. W. Garrett
Fred A. Gnau
Ben Grogan
W. L. Hampton, Jr.
Clyde S. Howard
John M. Hunnicut
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Robert E. Lee
M. T. McCarthy
T. B. McConnell
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
W. E. Mull
Rodes K. Myers

J. C. Nickell
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Bruce Sloan
Henry Stewart
W. R. Tapp
J. J. Thomas
Joseph L. Wall
Henry Ward
W. G. Williams
Charles Wylie
—59

Those who voted in the negative were—

Jas. C. Carter
Roscoe Claxon
C. L. Hammons
Tyler Munford
Ray O. Shehan
—5

Dr. Shields moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

SATURDAY, MAY 9, 1936.

The House was opened with prayer by the Reverend R. B. Kelly of the Church of the Nazarene of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
W. T. Baker
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Jas. C. Carter
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
George W. Dunlap
Howard G. Early
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
C. L. Hammons
W. L. Hampton, Jr.
Clyde S. Howard

John M. Hunnicut
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
W. H. Miller
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
A. W. Ross
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
W. R. Tapp
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
John Kirtley, Spkr.

Mr. Hunnicutt moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Riley moved that the privilege of the floor be extended to Mr. Ozna Shultz of Hartford, Kentucky.

Said motion was agreed to.

A message was received from the Senate announcing that they had receded from Amendment No. 3 heretofore proposed and adopted by the Senate to a bill which originated in this House, entitled:

H. B. 7. An Act relating to auctioneers doing business in the Commonwealth of Kentucky.

In accordance with the report of the Committee on Conference heretofore appointed to settle the differences between the two Houses, and has passed said bill.

(For bill see House Journal of April 13.)

(For amendments proposed and adopted by the Senate, see House Journal of April 30.)

Said bill was then passed as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
G. M. Ballard
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Wallace Brown
Floyd Clark
Roscoe Claxon
George S. Clay
J. A. Coleman
Roy Conway
Herbert Cook
Sam Dever
George W. Dunlap
Howard G. Early
H. Myer Garner
James Garnett, Jr.
Fred A. Gnau
Ben Grogan
W. L. Hampton, Jr.
Clyde S. Howard
John M. Hunnicut
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
M. T. McCarthy
T. B. McConnell
Elmer McGlothen
John Marshall
W. H. Miller
W. E. Mull
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
L. K. Rice
Wade H. Riley
Joe E. Robinson
W. T. Rollo
A. W. Ross
Carl Schneider
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
W. R. Tapp
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie

—54

Those who voted in the negative were—

Lloyd MacDonald —1

Mr. Larrimore moved that the vote by which said bill was passed as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

And that they had passed a resolution which originated in the Senate, entitled:

S. Res. 7. Resolution extending time for report of the Investigating Committee.

JOINT RESOLUTION.

Said resolution is as follows, viz.:

WHEREAS, Since the appointment of the Joint Committee investigating alleged irregularities in the re-organization bill, both branches of the General Assembly have demanded the presence of the members of said committee to such an extent as to prevent proper deliberations on which to base a conclusion except through hasty and unwise and perhaps unjust means: Now, Therefore,

Be it Resolved by the Kentucky Senate, the House Concurring therein, That the investigating period be extended to include the next special session of the General Assembly.

Mr. McCarthy moved that said resolution be laid on the table.

Said motion failed, not having received a second.

Said resolution was then concurred in.

Mr. Hunnicutt moved that the Rules of this House be suspended and that the vote by which a bill entitled:

H. B. 4. An Act relating to revenue and taxation on greyhound racing in the Commonwealth of Kentucky.

Was rejected, be reconsidered.

Said motion was disagreed to, having failed to receive a majority necessary under the Rules of this House.

The yeas and nays being required thereon by Messrs. Hunnicutt and Schneider, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen
G. M. Ballard
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Floyd Clark
Roscoe Claxon
Roy Conway
Herbert Cook
H. Myer Garner
James Garnett, Jr.
Fred A. Gnau
W. L. Hampton, Jr.
Clyde S. Howard
John M. Hunnicut
J. H. Jones
R. T. Kirkman
J. F. Ladd
M. T. McCarthy
John Marshall
A. W. Pfeiffer
J. C. Ramey
L. K. Rice
Joe E. Robinson
John C. Robinson
Carl Schneider
Dr. B. F. Shields
Henry Ward
Charles Wylie
—30

Those who voted in the negative were—

J. A. Coleman
Ben Grogan
Leslie Larrimore
Lloyd MacDonald
Hobart Rayburn
P. L. Sidebottom
Chester D. Silvers
L. R. Wells
—8

Mr. Hunnicutt moved that the vote by which the consideration of said bill was rejected, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Dickinson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled bills and a resolution, entitled:

H. B. 59. An Act relating to revenue and taxation and declaring an emergency.

H. B. 56. An Act to repeal, amend and re-enact Chapter

151 of the Acts of the General Assembly of the Commonwealth of Kentucky.

H. B. 53. An Act relating to the licensing of motor vehicle operators and providing for the definition of the term.

H. B. 64. An Act relating to revenue and taxation, imposing a tax on chain stores.

H. Res. 9. Resolution providing for the payment by the Clerk of the House and the Clerk of the Senate for copies of Kentucky Statutes and Supplements.

Thereupon all other business was suspended, said bills and resolution were read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bills and resolution to the Senate.

After a time the Enrolling Clerk delivered the original and enrolled copies of said bills and resolution, duly signed by the President of the Senate, into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bills and resolution to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

Dr. Shields moved that a Committee be appointed by the Speaker to inform the Senate that the House has completed the business before it and to request the Senate to appoint a similar Committee to act in conjunction with the Committee on the part of the House, to wait upon the Governor and inform him that the Senate and the House of Representatives, composing this Extraordinary Session of the General Assembly have completed their labors and are now ready to adjourn *sine die* and to ascertain from him if he has any further communication to make to the General Assembly.

Said motion was agreed to.

Thereupon the Speaker appointed Messrs. Clark, J. H. Jones, Bowen, Gough and Ramey as members constituting said Committee.

After a time the Committee reported that they had discharged the duties imposed upon them and that they had been informed by the Governor that he had no further communication to make to the General Assembly.

The Journals of the House were then read and compared and approved by the House, and then the House adjourned *sine die.*

Approved:

JOHN KIRTLEY,
Speaker House of Representatives.

BROOKS L. HARGROVE,
Chief Clerk, House of Representatives.

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